



## Universal Periodic Review

REVIEWING HUMAN RIGHTS IN IRELAND

*Your Rights. Right Now.*

### Universal Periodic Review Ireland

**Submission by the Irish Civil Society Coalition, *Your Rights. Right Now*  
for the 25<sup>th</sup> Session of the UPR Working Group April/May 2016  
21 September 2015**

**Submitting Stakeholder:** *Your Rights. Right Now* **Acronym:** YRRN

**About:** A coalition of 17 Irish NGOs, trade unions and civil society groups which was established in 2010 to coordinate the civil society response to Ireland's first examination under the Universal Periodic Review. This group was re-convened in 2015 in advance of Ireland's second examination and two new members have joined. The coalition conducted a number of general and thematic consultations and invited written submissions. Further information on the membership of the coalition and consultation process can be found in the main text of this submission and in Annex A, B and C.

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## **Introduction**

1. This civil society response was coordinated under the campaign identity, *Your Rights. Right Now*<sup>1</sup> by 17 Irish NGOs, trade unions and civil society groups that operate as the UPR Cross Sectoral Steering Group.<sup>2</sup> The content of the report was influenced extensively by information gathered at consultations held across Ireland,<sup>3</sup> in partnership with the Irish Human Rights and Equality Commission, and in collaboration with the Department of Justice and Equality. 56 written submissions were received.<sup>4</sup>
2. The report has been endorsed by 52 organisations.<sup>5</sup> It follows up on recommendations from Ireland's first UPR,<sup>6</sup> referenced throughout, and raises new issues arising since 2011.
3. Two overarching issues which emerged were the lack of disaggregated data pertaining to a range of areas where human rights are engaged and the impact of the economic crisis on the enjoyment of human rights.<sup>7</sup> Despite the State's previously accepted recommendations to protect the most vulnerable in the wake of the economic crisis,<sup>8</sup> a lack of disaggregated data makes it difficult to identify the impact of austerity measures on vulnerable groups.<sup>9</sup> Furthermore, human rights impact assessments of economic recovery plans are not carried out as a basis for future budgets and strategic planning.<sup>10</sup>

## **Background and Framework**

### **A. Policy Measures**

4. Since Ireland's first UPR, the State has still not adopted a National Human Rights Action Plan. A national programme of human rights and equality education for civil and public servants has not been adopted and human rights/equality proofing of legislation and policy is not carried out in a systematic manner.<sup>11</sup>
5. In 2015, the Government established the Interdepartmental Committee on Human Rights (IDCHR) to improve coherence in the signature and ratification of treaties and fulfilment of reporting obligations.<sup>12</sup>
6. The Government is developing a National Action Plan on Business and Human Rights based on the related Principles adopted in 2011 in consultation with a range of stakeholders.<sup>13</sup> However, no specific governmental efforts are currently focused on securing compliance with the 2012 Guiding Principles on Extreme Poverty and Human Rights.<sup>14</sup>

### **B. Human Rights Infrastructure**

7. The Irish Human Rights Commission<sup>15</sup> and the Equality Authority<sup>16</sup> were merged in 2014 to become the Irish Human Rights and Equality Commission.<sup>17</sup> The relevant legislation<sup>18</sup> provides for a public sector equality and human rights duty.<sup>19</sup>

### **C. Irish Constitution**

8. A Convention on the Constitution was established by the Government in 2012. The Convention examined nine issues and made recommendations on how the Constitution should be amended.<sup>20</sup> To date only two issues have been put to referendum.<sup>21</sup> The Government committed to responding to recommendations within four months of receiving the Convention's report on respective issues. However, numerous responses remain outstanding.<sup>22</sup>

### **D. Scope of International Obligations**

9. Ireland is party to six core international human rights treaties and operates a<sup>23</sup> dualist legal system. Therefore, ratification of international treaties does not give these automatic effect at domestic level. The majority of international human rights treaties that Ireland has ratified have not been incorporated into law.<sup>24</sup>

### **2011 Recommendations**

10. 21 recommendations were made at Ireland's first UPR regarding ratification of and reservations on international human rights treaties. 19 were accepted or partially accepted and 2 were rejected.<sup>25</sup> Updates were provided in the Government's interim report.<sup>26</sup>

### **Updates**

11. The State has not ratified the following: UN Convention on the Rights of Persons with Disabilities;<sup>27</sup> Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;<sup>28</sup> International Convention for the Protection of All Persons from Enforced Disappearances;<sup>29</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;<sup>30</sup> Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;<sup>31</sup> UNESCO Convention against Discrimination in Education; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

12. The State retains reservations under a number of international human rights treaties.<sup>32</sup>

### **Recommendations:**

- Incorporate human rights and equality impact assessments into the budgetary processes, recognising the State's minimum core obligations under international human rights law.
- Ensure the State's budgetary policy is informed by human rights/equality standards and based on disaggregated data.
- Integrate the framework of the Guiding Principles on Extreme Poverty and Human Rights in decision-making as part of a long term anti-poverty strategy.
- Ensure that the IDCHR operates transparently and allows for meaningful engagement with civil society.
- Immediately respond to outstanding recommendations from the Constitutional Convention and indicate which issues will be put to referendum and when.

## **Historical abuse of women and children in medical / institutional care**

### **2011 Recommendation**

13. 1 recommendation was accepted by Ireland at its first UPR.<sup>33</sup>

### **Updates**

14. Ireland published a review of symphysiotomy<sup>34</sup> in July 2014, the terms of reference of which excluded survivor testimony.<sup>35</sup> Despite calls from UN Committees, no independent inquiry has been held regarding the use of symphysiotomy in obstetrics care.<sup>36</sup> A Government Redress Scheme<sup>37</sup> provides for limited compensation and requires extensive evidence to be provided to support claims of ill health and complications that arose as a direct consequence of the procedure.<sup>38</sup> The Scheme also requires women to waive all rights and entitlements and indemnify scheduled parties potentially liable<sup>39</sup> before compensation will be awarded. Lack of transparent procedures<sup>40</sup> have reportedly led to severe difficulties<sup>41</sup> for survivors in accessing redress.<sup>42</sup>
15. Similarly, a full, independent inquiry into the experience of women in Magdalene Laundries has not been undertaken.<sup>43</sup> Under the terms of the Magdalene Restorative Justice Scheme, qualifying survivors must waive any right of action against the State or any other body or agency arising out of her admission to or work in, a laundry, contrary to her constitutional rights.<sup>44</sup> The official report<sup>45</sup> on this matter has been criticised for its narrow remit and ignoring survivors' testimonies.
16. Following media reports from 2014 of mass graves at the sites of former Mother and Baby Homes, the Government established an independent Commission of Inquiry into the matter, which has full investigatory powers.<sup>46</sup>

### **Recommendations:**

- Implement full and independent inquiries into the practice of symphysiotomy and Magdalene laundries, leading, where wrongdoing is identified, to prosecutions.
- Adopt and implement a consistent approach, in line with international human rights law, to all inquiries into the historical abuse of women and children.
- Abolish redress scheme waivers that prevent survivors from exercising their constitutional rights.

## **Freedom of Religion or Belief**

### **2011 Recommendations**

17. 7 recommendations were made, 6 were accepted or partially accepted and 1 was rejected. 47 Updates were provided in the Government's interim report.<sup>48</sup>

### **Updates**

18. Regarding 107.17, Article 40.6.1 of the Constitution<sup>49</sup> provides an exception to freedom of expression in the form of blasphemy.<sup>50</sup> The Constitutional Convention recommended that the offence be removed from the Constitution.<sup>51</sup> The Government committed to holding a referendum but has not done so.

19. Regarding 106.55 and 107.13, Articles 12.8, 31.4 and 34.5.1 of the Constitution require the President, Judges and the Council of State, including the Prime Minister and Deputy Prime Minister, to swear religious oaths when taking office.<sup>52</sup> Jurors, defendants and witnesses are asked to swear an oath on a religious text<sup>53</sup> in court proceedings.<sup>54</sup>

**Recommendations:**

- Amend Article 40.6.1 of the Constitution to remove the offence of blasphemy from Irish law.
- Replace the religious oaths in Articles 12.8, 31.4 and 34.5 of the Constitution and all oaths in court with neutral declarations.

**The Right to Education**

**2011 Recommendations**

20. 9 recommendations were made, 7 were accepted and 2 were rejected.<sup>55</sup> Updates were provided in the Government's interim report.<sup>56</sup>

**Updates**

21. Regarding 107.27, 107.47 and 107.48, a 2013 Government survey shows that 96 per cent of primary schools have a religious patron with 89.6 per cent under the patronage<sup>57</sup> of the Catholic Church.<sup>58</sup>
22. Section 15 of the Education Act, 1998<sup>59</sup> and Section 7(3)(c) of the Equal Status Act 2000<sup>60</sup> allow denominational schools to actively discriminate to uphold the religious "ethos" of state-funded schools.<sup>61</sup> Children of a particular faith may be prioritised for admission over children not of that denomination.<sup>62</sup>
23. Section 30 of the Education Act, 1998 allows parents to opt-out of religious education but supervision facilities do not provide an alternative curriculum.<sup>63</sup> Rules governing the teaching of the national curriculum at primary level make it difficult to opt-out of religious instruction, which must be integrated throughout the entire curriculum.<sup>64</sup>

**Recommendations:**

- Amend Section 15 of the Education Act 1998, Section 7(3)(c) of the Equal Status Act 2000, and Section 37(1) of the Employment Equality Act 1998 to oblige publicly funded schools to deliver educational services, including employment, state curriculum and enrolment, in an objective and pluralistic manner.
- Accelerate the divestment programme for primary and post-primary schools and ensure the widest possible availability of multi and non-denominational schools.

## **The Rights of Persons with Disabilities**

### **2011 Recommendations**

24. 7 recommendations were made and accepted or partially accepted.<sup>65</sup> Updates were provided in the Government's interim report.<sup>66</sup>

### **Updates**

25. The Government has not ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD).<sup>67</sup> The Government has not fully implemented the Education for Persons with Special Educational Needs (EPSEN) Act 2004.<sup>68</sup>
26. In 2013, the Government abolished two key transport supports for people with disabilities with no replacements.<sup>69</sup> Two recent reports detailed a lack of access to justice for persons with disabilities including allegedly retaliatory actions taken by governmental bodies against parents attempting to access services for children.<sup>70</sup>
27. Some people with disabilities are excluded from job activation programmes and risk the loss of secondary benefits upon employment.<sup>71</sup> Despite a commitment in the 2011 *Programme for Government* to promote its recognition,<sup>72</sup> Irish Sign Language (ISL),<sup>73</sup> has not been officially recognised.<sup>74</sup>

### **Recommendations:**

- Publish a roadmap of legislative reforms and set a concrete timeline for UNCRPD ratification.<sup>75</sup>
- Publish a plan for the full commencement of the EPSEN Act 2004, Disability Act 2005, and Citizens Information Act 2007.
- Introduce a statutory transport subsidy scheme for people with disabilities.
- Remove barriers to employment for people with disabilities.
- Legislate to officially recognise Irish Sign Language.

## **Legal Protection of Economic, Social and Cultural (ESC) Rights**

### **2011 Recommendations**

28. 6 recommendations on ESC rights were accepted or partially accepted.<sup>76</sup> The Government provided updates in its interim report.<sup>77</sup>

### **Updates**

29. Regarding 107.4, Ireland signed the OP-ICESCR on 23 May 2012. No steps have been taken towards ratification. The Government in its interim report noted that a screening of obligations and consultations is necessary to progress towards ratification.<sup>78</sup>
30. ESC rights remain largely unenforceable in domestic law. The Government has not responded to the recommendation of the Constitutional Convention,<sup>79</sup> that the Constitutional protection of ESC rights be strengthened,<sup>80</sup> despite the Convention's terms of reference requiring a Government response within four months.<sup>81</sup>

31. Equality legislation<sup>82</sup> does not provide a full range of grounds of discrimination prohibited by ICESCR.<sup>83</sup>

**Recommendations:**

- Withdraw the State's reservations under ICESCR and ratify OP-ICESCR.
- Respond to the recommendation of the Constitutional Convention on ESC rights.
- Bring Ireland's equality legislation in line with Article 2(2) ICESCR by widening the grounds upon which discrimination is prohibited, including socio-economic status.

**Right to the Highest Attainable Standard of Health**

**Updates:**

32. Regarding 106.56, there have been significant budget cuts in recent years to community and national healthcare services including the community sector and critical posts being left vacant.<sup>84</sup>

33. There are challenges in providing timely access to acute hospitals as demand exceeds capacity.<sup>85</sup>

34. Regarding 106.57, CESCR most recently expressed concern on widening disparities between people with and those without private health insurance in accessing medical services.<sup>86</sup>

35. Registration for free General Practitioner (GP) care for children under 6 years began in 2015.<sup>87</sup> A means-tested GP visit card<sup>88</sup> for the over 70s has also been introduced. Despite commitments made, the Government has not provided a clear plan on how it will introduce universal healthcare<sup>89</sup> for the remainder of the population.<sup>90</sup>

36. HIV and AIDS related stigma and discrimination in Ireland remains a problem.<sup>91</sup> The new National Sexual Health Strategy has yet to be published<sup>92</sup> and should contain a strong focus on HIV/AIDS prevention.

37. Concern has been raised that the existing focus of service provision in relation to addiction is overly focused on the use of opiate-based substances.<sup>93</sup>

**Recommendations:**

- Provide a concrete plan and timeline for the roll out of universal healthcare.
- Introduce targeted measures to combat overcrowding and waiting times in access to healthcare.
- Whilst transitioning to universal healthcare, introduce a common waiting list for treatment in publicly funded hospitals for private and public patients.
- Publish the National Sexual Health Strategy with appropriate focus on prevention of HIV/AIDS.
- Efforts targeting opiate, non-opiate and poly-substance use should be introduced.

## **Right to Adequate Housing**

### **Updates**

38. There has been a major increase in family homelessness.<sup>94</sup> There is not enough State emergency accommodation.<sup>95</sup> The Government's decision<sup>96</sup> to maintain Rent Supplement<sup>97</sup> at 2013 levels, in spite of increasing pressure on private rents, is leading to insecurity of tenure and risk of homelessness.<sup>98</sup> Many landlords do not accept Rent Supplement.<sup>99</sup> Under the new Housing Assistance Payment (HAP) housing is provided through the private rental sector.<sup>100</sup> There is a lack of social housing<sup>101</sup> due to the State's reduction in the social housing budget over successive years.<sup>102</sup> Demand on the private rented sector continues to increase,<sup>103</sup> resulting in increasing rental prices.<sup>104</sup>
39. The procedure for eviction of local authority tenants changed in 2015.<sup>105</sup> The final arbiter of the decision to evict is now the District Court,<sup>106</sup> which can consider the reasonableness of the decision to evict.<sup>107</sup> However, there is no State legal aid available for such cases.<sup>108</sup> The Private Residential Tenancies Board (PRTB) which deals with disputes between tenants and private landlords<sup>109</sup> does not apply to social housing tenancies.<sup>110</sup>

### **Recommendations:**

- Prioritise the family homelessness crisis with a view to introducing immediate relief and long-term solutions.
- Increase and fast-track the provision of social housing.
- Expand the State legal aid scheme to include cases involving eviction from social housing.
- Extend the remit of the PRTB to local authority tenancies, including social housing eligibility, repairs/maintenance, rent and rent arrears.
- Introduce legislative and policy measures to ensure rent supplement/HAP can meet market rent.

## **The Right to Work**

### **Updates**

40. The commencement<sup>111</sup> of the Industrial Relations (Amendment) Act 2015<sup>112</sup> is welcome. However, there is a lack of protection of the right to Freedom of Association, to Organise and Collective Bargaining for freelance/atypical workers.

### **Recommendation:**

- Adequately protect the right of freelance/atypical workers to collective bargaining.



## **Gender Equality**

### **2011 Recommendations**

41. 5 recommendations were accepted or partially accepted.<sup>113</sup> The Government provided updates in its interim report.<sup>114</sup>

### **Updates**

42. Regarding 106.59, no concrete actions have been taken to increase the number of women on corporate boards.<sup>115</sup> A primary objective of the National Women's Strategy 2007-2016 was to address the gender pay gap; however, margins have increased.<sup>116</sup> The Strategy has failed to operate in effective, practical terms, has yet to be reviewed independently and despite its expiry in 2016, civil society groups have not been consulted on a new strategy.<sup>117</sup>

43. Ireland has repeatedly failed to submit reports to CEDAW on time and its combined 6<sup>th</sup> and 7<sup>th</sup> Periodic Reports are outstanding since 2007.<sup>118</sup>

### **Recommendations:**

- Ensure an independent review of the National Women's Strategy and devise a consultative process on its successor.
- Prioritise the submission of Ireland's combined 6<sup>th</sup> and 7<sup>th</sup> Periodic Reports to CEDAW.
- Set timeframes within which gender balance on corporate boards must be progressed and steps taken to reduce the gender pay gap.

## **Violence against Women**

### **2011 Recommendations**

44. 9 recommendations were accepted.<sup>119</sup> Updates were provided by the Government in its interim report.<sup>120</sup>

### **Updates**

45. Ireland has not signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).<sup>121</sup> Ireland previously stated that "administrative and legislative" arrangements required to enable signature were being examined.<sup>122</sup> Eligibility for safety orders should be extended to parties involved in intimate relationships regardless of whether they cohabit<sup>123</sup> and specific offences of stalking and cyber-harassment should be enacted.

46. There is insufficient data on the nature and extent of domestic violence in Ireland to develop evidence-based policies, plan service provision and identify gaps or discrimination in services.<sup>124</sup> There has been no comprehensive audit of sexual abuse and violence since 2002.<sup>125</sup> Although demand for relevant services grew,<sup>126</sup> cuts have continued since the introduction of austerity measures in 2008 so that many women are on waiting lists for support services and cannot be accommodated in refuges.<sup>127</sup>

47. The Habitual Residence Condition (HRC)<sup>128</sup> which must be satisfied when applying for social protection, can be a barrier for women experiencing violence in accessing social protection entitlements.<sup>129</sup> Migrants experiencing domestic violence face difficulties in applying for independent residence permits.<sup>130</sup>

### **Recommendations:**

- Sign and ratify the Istanbul Convention.
- Ensure consistent, independent, data collection on domestic and sexual violence.
- Make legislative provision to allow migrants who experience domestic violence to apply for independent residence permits.
- Adequately fund domestic and sexual violence support and advocacy services.

## **LGBTI Rights**

### **2011 Recommendations**

48. 2 recommendations on LGBTI rights were made and accepted or partially accepted by Ireland in 2011.<sup>131</sup> The Government provided updates in its interim report.<sup>132</sup>

### **Updates**

49. Regarding 107.44, an historic referendum to amend Article 41 of the Constitution to provide for Marriage Equality was passed on 22 May 2015.<sup>133</sup> Enactment of legislation providing equal rights for same-sex couples in relation to parenting of children is strongly welcomed.<sup>134</sup> However, proposed legislation to provide a legal framework to govern the practice of surrogacy for all couples was deferred.<sup>135</sup>

50. The enactment of the Gender Recognition Act 2015 is strongly welcomed. This legislation allows for self-certification by transgender people of their preferred identity. However, the Act provides a limited pathway to legal recognition of 16 and 17 year olds.<sup>136</sup> Trans people under 16 are not eligible to apply. ‘Gender identity’ and ‘gender expression’ are not currently listed as grounds protected under existing equality legislation.<sup>137</sup>

51. There is a lack of access to regional healthcare services for those wishing to transition.

52. Regarding 107.45, Section 37(1) of the Employment Equality Act 1998 permits employers to ‘take action’ against an employee/prospective employee to uphold the religious “ethos” of an institution including on grounds other than religion.<sup>138</sup> The progression of the Equality (Miscellaneous Provisions) Bill 2013 to address Section 37(1) is welcomed.<sup>139</sup>

53. No provision exists to allow LGBTI public servants who retired prior to the introduction of civil partnership/marriage equality, having previously chosen not to nominate an opposite sex beneficiary for their pension,<sup>140</sup> to nominate now a same sex partner for the relevant pension entitlement.<sup>141</sup>

### **Recommendations:**

- Introduce legislation to regulate surrogacy and ensure legal provisions apply equally to same-sex and opposite-sex couples.
- Prioritise measures to address the discriminatory impact of Section 37(1) of the Employment Equality Act 1998.
- Extend protections against discrimination on the grounds of ‘gender identity’ and/or ‘gender expression’ in all equality policy and legislation.
- Ensure that Trans people have access to regional healthcare services and quality, timely specialist support services, including mental health services.
- Amend the Gender Recognition Act 2015 so that Trans and intersex young people can avail of legal recognition that is quick, transparent and accessible.
- Enact legislation to ensure LGBTI persons are no longer discriminated against in relation to pension provision.

### **Mental Health**

#### **2011 Recommendations**

54. 1 recommendation was accepted.<sup>142</sup> The Government provided updates in its interim report.<sup>143</sup>

#### **Updates**

55. Regarding 107.16, the Assisted Decision-Making (Capacity) Bill 2013 has not yet been enacted.<sup>144</sup> The Government has not amended the Mental Health Act 2001 to comply with the UNCPRD.<sup>145</sup>

56. The 2013 Capacity Bill<sup>146</sup> does not respect the right to legal capacity in accordance with the UNCPRD.<sup>147</sup>

57. The Mental Health Act 2001 allows involuntary treatment and detention.<sup>148</sup> Mental health services continue to use coercive and restrictive practices like non-consensual psychiatric medication and electroshock.<sup>149</sup>

58. Non-medication centred treatment and community housing choices are lacking for people experiencing mental health difficulties. Tailored services are not available for minority groups.<sup>150</sup> Staff are not appropriately trained in community care.<sup>151</sup> Ireland’s Mental Health Strategy has not been adequately resourced or fully implemented.<sup>152</sup>

### **Recommendations:**

- Enact the Assisted Decision-Making (Capacity) Bill 2013 and ensure that it and the Mental Health Act 2001 comply with the UNCPRD.
- Strictly regulate non-consensual treatment.
- Train relevant healthcare staff on community-based care models and alternatives to non-consensual treatment and adopt holistic approaches for treatment options.

- Involve persons concerned in decisions around community-based living.
- Fully implement and update Ireland's Mental Health Strategy including recommendations around social inclusion.

## **The Rights of Older People**

### **2011 Recommendations**

59. 2 recommendations were made and accepted or partially accepted.<sup>153</sup> The Government provided updates in its interim report.<sup>154</sup>

### **Updates**

60. Regarding 106.35, reductions in secondary income supports; rising prices; and introduction of new taxes and charges have had a cumulative impact on older people.<sup>155</sup>

61. Despite an increase to the Living Alone Allowance in Budget 2015, lone pensioners face financial hardship.<sup>156</sup> There has been a reduction in the income threshold for medical cards for those aged over 70.<sup>157</sup> Since the introduction of prescription charges, fees rose from €0.50 to €2.50.<sup>158</sup>

62. Cuts to funding for the Nursing Home Support Scheme in 2015 led to significant increases in waiting lists and times.<sup>159</sup>

63. There is a lack of statutory provision for financial support for the delivery of aged care in the community.<sup>160</sup> Despite an increase in the number of people aged 85 and over,<sup>161</sup> home help hours have not increased from 2012 levels.<sup>162</sup> The number of recipients has also fallen.<sup>163</sup>

64. The Government has failed to introduce an implementation plan for the National Positive Ageing Strategy published in 2013.<sup>164</sup>

### **Recommendations:**

- Introduce an implementation plan for the National Positive Ageing Strategy.
- Examine the impact of austerity measures on older people with a view to ensuring support services are sufficiently resourced.
- Introduce targeted measures to combat waiting times under the Nursing Home Support Strategy.
- Ensure that funding and allocation of home help hours matches the growing ageing population and demand for such service.
- Develop a care system which enables older people to have a choice around their long term care needs.

## **Reproductive Rights**

### **2011 Recommendations**

65. 6 recommendations were made and all were rejected.<sup>165</sup> Updates were provided by the Government in its interim report.<sup>166</sup>

### **Updates**

66. Regarding 108.4, Article 40.3.3 of the Constitution equates the existence of a foetus with the right to life of a pregnant woman.<sup>167</sup> Abortion is unlawful in Ireland except to save a woman's life;<sup>168</sup> women in all other circumstances must travel abroad for abortion services.<sup>169</sup> The provision of information regarding abortion is strictly regulated and criminalised in certain circumstances by the Abortion Information Act 1995. In cases of conflict with foetal existence, doctors are prevented from making clinical decisions in the best interests of safeguarding a woman's health or dignity.<sup>170</sup> A number of cases of harm to women, including avoidable deaths, arising from Ireland's abortion laws have occurred since 2011.<sup>171</sup> UN Treaty Bodies have criticised the non-compliance of Ireland's abortion laws including its Constitution with international human rights standards.<sup>172</sup>

67. Regarding 108.5, 108.6, 108.7 and 109.9, the Protection of Life During Pregnancy Act (PLDPA) was enacted in 2013.<sup>173</sup> There are concerns over the failure to provide adequate services, and cumbersome and discriminatory procedures<sup>174</sup> under the Act.<sup>175</sup>

68. Regarding 108.8, while the provisions of the 1861 Act that criminalised abortion<sup>176</sup> have been repealed, the PLDPA re-criminalises abortion, imposing a maximum penalty of 14 years imprisonment.<sup>177</sup>

### **Recommendations:**

- Repeal Article 40.3.3 of the Irish Constitution.
- Decriminalise abortion by repealing sections 22 and 23 of the PLDPA 2013.
- Repeal the Abortion Information Act 1995.
- Provide a human rights compliant framework for abortion, in law and in practice.

## **Rights of the Child**

### **2011 Recommendation**

69. 12 recommendations were made and accepted or partially accepted.<sup>178</sup> The Government provided updates in its interim report.<sup>179</sup>

### **Updates**

70. Regarding 106.9 and 107.9, a constitutional amendment on children was passed by referendum in 2012.<sup>180</sup> Legislation is required to ensure compliance with Article 42A of the Constitution.<sup>181</sup>

71. The Second Optional Protocol to the Convention the Rights of the Child<sup>182</sup> has not been ratified despite the Government indicating at its first UPR that legislation was “at an advanced stage of preparation”.<sup>183</sup>
72. Regarding 107.41 and 107.42, the defence of ‘reasonable chastisement’ still exists in common law. Corporal punishment is permissible at home and by childminders in certain settings.<sup>184</sup>
73. Childcare in Ireland is among the most expensive in the world.<sup>185</sup> Evidence from centre based services<sup>186</sup> suggests varying quality of provision.<sup>187</sup> There is no comprehensive public funding of childcare or afterschool care<sup>188</sup> and limited support for low-income families.<sup>189</sup>
74. Unacceptable delays exist in responding to child abuse referrals.<sup>190</sup> Proposed legislation places a duty on organisations providing relevant services to children to carry out risk assessments and prepare an organisation-specific Child Safeguarding Statement<sup>191</sup> but does not provide for robust sanction for failure to comply.<sup>192</sup>
75. There are delays in interviewing child victims and child witnesses of sexual or physical abuse or serious neglect.<sup>193</sup> Inadequacies exist within the court services in dealing with child victims.<sup>194</sup> Delays are experienced in access to counselling and support services.<sup>195</sup>

### **Recommendations:**

- Fully incorporate the UN Convention on the Rights of the Child into domestic law.
- Enact legislation to fully implement Article 42A of the Constitution.
- Ratify the Second Optional Protocol to the UN Convention on the Rights of the Child.
- Ban corporal punishment in all settings.
- Increase investment in early childhood care and education to the current OECD average of 0.8 per cent GDP at a minimum.
- Legislate for the mandatory provision of confidential victim support services free of charge before, during and, for an appropriate time, after criminal proceedings, in line with Article 8 of the EU Victims’ Directive.

### **Traveller and Roma Rights**

#### **2011 Recommendations**

76. 7 recommendations were made, 6 were accepted and one was rejected.<sup>196</sup> The Government provided updates in its interim report.<sup>197</sup>

#### **Updates**

77. Despite repeated recommendations from international treaty monitoring bodies<sup>198</sup> the Government has failed to recognise Travellers as an ethnic group.<sup>199</sup>

78. Travellers and Roma experience poorer outcomes regarding health, education, employment and discrimination, leading to deprivation and exclusion.<sup>200</sup> The lack of overall prioritisation of Travellers and Roma since 2011 was exemplified in Ireland's National Traveller/Roma Integration Strategy (NTRIS) document submitted to the European Commission in 2012. The strategy contains no goals, targets, indicators or related timeframes, funding mechanisms or monitoring and evaluation mechanisms.<sup>201</sup> Roma are largely excluded from this document<sup>202</sup> which has not been changed since 2011.<sup>203</sup> In 2015 the Government committed to working in partnership with Traveller organisations to revise the strategy.<sup>204</sup>

79. Under the Housing (Traveller Accommodation) Act 1998, municipal authorities must provide adequate accommodation for Travellers in their region including a number of serviced transient sites. Local authorities continue to fail to meet accommodation targets and existing accommodation often lacks basic services and utilities.<sup>205</sup>

### **Recommendations:**

- Recognise Travellers as a distinct ethnic group without further delay.
- Develop and implement a progressive National Traveller and Roma Integration Strategy, in line with human rights commitments.
- Establish concrete measures to combat discrimination and ensure equal access and improved outcomes for Travellers and Roma in relation to education, employment, health, and participation.
- Introduce legally binding targets for municipal authorities so that adequate accommodation for Travellers is provided.

## **International Assistance and Cooperation**

### **2011 Recommendations**

80. 1 recommendation was made and accepted by Ireland during its first UPR.<sup>206</sup> The Government provided updates in its interim report.<sup>207</sup>

### **Updates**

81. Spending to achieve the 0.7% Official Development Assistance (ODA)/Gross National Income (GNI) target peaked at 0.59% of GDP in 2008 and has fallen since.<sup>208</sup>

82. Standards of transparency, public participation and accountability are lacking when it comes to tax policies in Ireland. There are concerns about the spill-over effect of Ireland's tax policies on developing countries.<sup>209</sup> The State does not systematically conduct impact assessments of the implications of its international tax policies.<sup>210</sup>

### **Recommendations:**

- Make an explicit commitment to meet the UN target of 0.7% ODA/GNI by 2020.
- Establish greater coherence across government departments to ensure fiscal policies do not promote inequitable growth, contribute to further marginalisation of people and inequality between men and women in Ireland and internationally.

- Ensure Irish companies and individuals are adhering to international law including human rights standards and international best practice standards for business.
- Introduce periodic independent, participatory impact assessments of any major changes to the Irish tax code for potential spill-over effects on developing countries.

## **Immigration and Asylum/Domestic Workers**

### **2011 Recommendations**

83. 20 recommendations were made, 9 were accepted, 4 partially accepted and 7 were rejected.<sup>211</sup> Updates were provided by the Government in its interim report.<sup>212</sup>

### **Updates**

84. Regarding 106.17, 106.60, 106.61 and 107.11, the General Scheme of the International Protection Bill<sup>213</sup> proposes to introduce a single procedure mechanism for determining international protection applications.<sup>214</sup> Family reunification entitlements<sup>215</sup> and ‘leave to remain’ procedures are inadequate. No stateless determination is provided for.<sup>216</sup> Provisions on the rights of the child require strengthening.<sup>217</sup> The issue of Direct Provision is not addressed<sup>218</sup> and there remains no independent complaints mechanism.<sup>219</sup>

85. In June 2015, the Report of the Direct Provision Working Group<sup>220</sup> was published.<sup>221</sup> Serious concerns remain at the poor living conditions and the lengthy stays of asylum seekers in direct provision centres.<sup>222</sup>

86. Aside from international protection measures, the comprehensive immigration reform envisaged by the Immigration, Residence and Protection Bill, 2010<sup>223</sup> has not progressed, nor has the European Communities (Free Movement of Persons) (No. 2) Regulations 2006 been amended.<sup>224</sup> A regularisation scheme for undocumented migrants<sup>225</sup> is under consideration but it is unclear what progress has been made.<sup>226</sup>

87. Ireland ratified the ILO Domestic Workers Convention, 2011 (No. 189) in 2015.<sup>227</sup> However, many domestic workers still face severe exploitation.<sup>228</sup>

88. The draft National Action Plan to Prevent and Combat Human Trafficking<sup>229</sup> does not refer to plans to develop policy or law regarding protection of victims of human trafficking.<sup>230</sup> Policy and/or legislation for the identification and protection of such victims is required.<sup>231</sup>

89. No independent training or testing of interpreters currently exists. Lack of consistency in interpretation standards has a negative impact on vulnerable groups such as asylum seekers.<sup>232</sup>

90. Regarding Ireland’s response to the crisis in the Mediterranean,<sup>233</sup> detail is required on the Government’s proposals regarding processing procedures and reception conditions for asylum seekers and refugees, and future challenges, including family reunification.<sup>234</sup>



### **Recommendations:**

- Amend the General Scheme of the International Protection Bill to address family reunification, best interests of the child and the legal framework for reception conditions.
- Pending abolition, significantly reform the direct provision system, and extend the remit of the Ombudsman for Children to include oversight of the direct provision system or alternative accommodation arranged by the Reception and Integration Agency.
- Undertake comprehensive immigration legislative reform, including giving greater protection to undocumented migrants, and amend the European Communities (Free Movement of Persons) (No. 2) Regulations 2006.
- Fully implement the ILO Domestic Workers Convention.
- Publish a National Action Plan to Prevent and Combat Human Trafficking.
- Develop a comprehensive victim identification and protection procedure with the involvement of civil society for the early identification of victims of trafficking.
- Ensure independent training and testing of interpreters.

### **Hate Crime and Discrimination**

#### **2011 Recommendations**

90. 25 recommendations were made; 20 were partially or fully accepted and 5 rejected.<sup>235</sup> Interim updates were provided by the Government.<sup>236</sup>

#### **Updates**

91. Contrary to 107.25 and 107.26, Ireland has not produced a successor to the 2005-2008 National Action Plan against Racism.<sup>237</sup>
92. Despite accepting multiple recommendations,<sup>238</sup> the State has failed to reform the Prohibition of Incitement to Hatred Act 1989.<sup>239</sup>
93. In 2014/2015, empirical research,<sup>240</sup> and media coverage of individual cases of victimisation (particularly on the grounds of race and disability),<sup>241</sup> evidenced that current provisions are inadequate to address the problem of hate crime in Ireland.
94. Contrary to 107.29 concrete measures to promote reporting and recording of hate crime have not been implemented.<sup>242</sup> Low rates of investigation are evident.<sup>243</sup> If prosecuted, the hate element often does not reach the courts.<sup>244</sup>
95. Heads of Bill, addressing hate crime were prepared by independent researchers in 2015 in response to a Ministerial request.<sup>245</sup>

## **Recommendations:**

- Legislate to introduce aggravated offences and enhanced sentencing where evidence of bias as a motivating or demonstrable factor exists.
- Monitor the implementation of hate crime laws from inception, focusing in particular on training, reporting, recording, investigation, prosecution and sentencing.
- Mainstream a victim orientation throughout the criminal justice system.

## **Prisons/Detention**

### **2011 Recommendations**

96. 14 recommendations were made and accepted.<sup>246</sup> Updates were provided by the Government in its interim report.<sup>247</sup>

### **Updates**

97. Regarding 106.2 and 106.3, the State has not ratified the Optional Protocol to the Convention against Torture (OP CAT),<sup>248</sup> nor begun the process of establishing a National Preventive Mechanism.

98. Regarding 106.36, 106.37, 106.38, 106.39, 106.40 and 106.44, although the Irish Prison Service has put in place a Strategic plan<sup>249</sup> to end “slopping out” by the end of 2016<sup>250</sup> a significant amount of prisoners still slop out.<sup>251</sup> The Government has also failed to implement other commitments including replacement of wings A and B in Limerick prison.<sup>252</sup>

99. Regarding 106.42, plans to build a new prison are welcomed, but the proposal, which allows for double occupancy of cells sized for one person, is regressive and contrary to international standards.<sup>253</sup>

100. Regarding 106.41, 106.44 and 106.45, overcrowding is still prevalent in Irish prisons.<sup>254</sup> In relation to 106.47, overuse of solitary confinement is of serious concern.<sup>255</sup> Regarding 107.34, remand and convicted prisoners continue to be housed together.<sup>256</sup>

101. Children continue to be detained in adult prisons<sup>257</sup> and remand is significantly overused.<sup>258</sup>

102. Despite enactment of legislation to offer an alternative to detention for not paying fines,<sup>259</sup> 9,000 people were committed for such an offence in 2014.<sup>260</sup>

103. The Inspector of Prisons has identified a culture of abuse of power in prisons.<sup>261</sup>

## **Recommendations:**

- Ratify OP-CAT and create an effective and independent National Preventative Mechanism to include a fully independent complaints mechanism, an Office of Prison Ombudsman and a strengthened Office of the Inspector of Prisons.

- Eliminate the practice of “slopping out” and bring prisons in line with international standards.
- Ensure that children’s detention centres guarantee, at a minimum, protection of rights provided by international law.
- Remove all children from adult prison.
- Increase and promote the use of existing alternatives to detention and to continue to legislate for additional effective alternatives to detention.

## Annex A

### Members of Cross Sectoral Steering Group

1. Age Action [www.ageaction.ie](http://www.ageaction.ie)
2. Educate Together [www.educatetogether.ie](http://www.educatetogether.ie)
3. Free Legal Advice Centres [www.flac.ie](http://www.flac.ie)
4. Gay and Lesbian Equality Network [www.glen.ie](http://www.glen.ie)
5. Immigrant Council of Ireland [www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)
6. Irish Congress of Trade Unions [www.ictu.ie](http://www.ictu.ie)
7. Irish Council for Civil Liberties [www.iccl.ie](http://www.iccl.ie)
8. Irish Family Planning Association [www.ifpa.ie](http://www.ifpa.ie)
9. Irish Penal Reform Trust [www.iprt.ie](http://www.iprt.ie)
10. Irish Traveller Movement [www.itmtrav.ie](http://www.itmtrav.ie)
11. Mercy Law Resource Centre<sup>262</sup> [www.mercylaw.ie](http://www.mercylaw.ie)
12. National Women's Council of Ireland [www.nwci.ie](http://www.nwci.ie)
13. NUI Galway, Centre for Disability law & Policy [www.nuigalway.ie](http://www.nuigalway.ie)
14. Pavee Point [www.paveepoint.ie](http://www.paveepoint.ie)
15. Transgender Equality Network Ireland [www.teni.ie](http://www.teni.ie)
16. Union of Students in Ireland [www.usi.ie](http://www.usi.ie)
17. Disability Federation of Ireland [www.disability-federation.ie](http://www.disability-federation.ie)

## Annex B

### Consultations

	<b>Date</b>	<b>Event</b>	<b>Location</b>
<b>1.</b>	16 <sup>th</sup> of July 2015	Open Consultation in partnership with the Irish Human Rights and Equality Commission, hosted by the Institute for Life Course and Society NUI Galway	Galway
<b>2.</b>	28 <sup>th</sup> of July 2015	Open Consultation in partnership with the Irish Human Rights and Equality Commission, hosted by University College Cork	Cork
<b>3.</b>	29 <sup>th</sup> of July 2015	Thematic Disability Consultation in partnership with NUI Galway Centre for Disability Law & Policy	Dublin
<b>4.</b>	30 <sup>th</sup> of July 2015	Open Consultation in partnership with the Irish Human Rights and Equality Commission	Dublin
<b>5.</b>	5 <sup>th</sup> of August	Thematic Consultation on the Rights of Older People held by Age Action with Glór	Cork
<b>6.</b>	3 <sup>rd</sup> of September	Thematic consultation on HIV and Addiction held by HIV Ireland	Dublin
<b>7.</b>	3 <sup>rd</sup> of September	Thematic Consultation on the Rights of Older People held by Age Action with Glór	Dublin
<b>8.</b>	9 <sup>th</sup> of September	UPR National Review Event	Dublin

## **Annex C**

### **Submissions received by the *Your Rights. Right Now* campaign**

*Your Rights Right Now* received 56 written submissions, of which 27 submissions were from NGOs, trade unions and civil society groups and 29 were from private individuals. Organisations which submitted information to the *Your Rights Right Now* campaign are:

1. Abstergo Puto Scio
2. Age Action
3. Atheist Ireland
4. The Children's Rights Alliance
5. Clondalkin Travellers Development Group
6. Community Action Network
7. Debt and Development Coalition Ireland
8. Disability Federation of Ireland
9. Dóchas
10. Economic, Social and Cultural Rights Initiative
11. Free Legal Advice Centres
12. Irish Deaf Society
13. Immigrant Council of Ireland
14. Irish Congress of Trade Unions
15. Irish Family Planning Association
16. Irish Penal Reform Trust
17. Irish Refugee Council
18. Love Leitrim
19. Mercy Law Resource Centre<sup>263</sup>
20. National Women's Council of Ireland
21. NUI Galway Centre for Disability Law & Policy
22. Offaly Traveller Movement
23. Primary Healthcare for Travellers Project Clondalkin
24. Shannonwatch
25. St. Anthony's Park Community Development Initiative (Cork)
26. Threshold
27. Pension Equality
28. 29 Private Individuals

## **Annex D**

### **Endorsements**

A total of 52 organisations and 3 private individuals endorsed the Civil Society Coalition Report prior to submission to the 25<sup>th</sup> Session of the United Nations UPR Working Group.

1. Abortion Rights Campaign
2. Action Aid
3. Age Action
4. All Together in Dignity
5. Atheist Ireland
6. Barnardos
7. Cairde
8. Clondalkin Travellers Development Group
9. Comhlámh
10. Community Action Network
11. Community Law and Mediation
12. Disability Federation of Ireland
13. Economic, Social and Cultural Rights Initiative
14. Educate Together
15. Focus Ireland
16. Free Legal Advice Centres
17. Friends of Londiani
18. Galway Centre for Independent Living
19. Galway Traveller Movement
20. Gay and Lesbian Equality Network
21. Immigrant Council of Ireland
22. Inclusion Ireland
23. Irish Advocacy Network
24. Irish Council for Civil Liberties
25. Irish Congress of Trade Unions
26. Irish Deaf Society
27. Irish Development Education Association
28. Irish Family Planning Association
29. Irish Penal Reform Trust
30. Irish Road Victims' Association
31. Irish Translators' and Interpreters' Association
32. Irish Traveller Movement
33. Justice for Magdalenes Research
34. LIR Anti Racism Training and Education Programme
35. Mercy Law Centre
36. Nasc The Irish Immigrant Support Centre

37. National Collective of Community Based Women's Networks
38. National Traveller Women's Forum
39. National Women's Council of Ireland
40. New Communities Partnership
41. NUI Galway Centre for Disability Law and Policy
42. Pavee Point
43. Pension Equality
44. Rape Crisis Network Ireland
45. Recovery Experts by Experience
46. Rialto Rights in Action
47. Survivors of Symphysiotomy
48. The Galway Leader Forum
49. The NEIL Programme
50. Transgender Equality Network Ireland
51. Union of Students in Ireland
52. Women's Aid
53. 3 private individuals



## **Annex E**

### **List of recommendations**

#### **Background and Framework**

- Incorporate human rights and equality impact assessments into the budgetary processes, recognising the State's minimum core obligations under international human rights law.
- Ensure the State's budgetary policy is informed by human rights/equality standards and based on disaggregated data.
- Integrate the framework of the Guiding Principles on Extreme Poverty and Human Rights in decision-making as part of a long term anti-poverty strategy.
- Ensure that the IDCHR operates transparently and allows for meaningful engagement with civil society.
- Immediately respond to outstanding recommendations from the Constitutional Convention and indicate which issues will be put to referendum and when.

#### **Historical abuse of women and children in medical / institutional care**

- Implement full and independent inquiries into the practice of symphysiotomy and Magdalene laundries, leading, where wrongdoing is identified, to prosecutions.
- Adopt and implement a consistent approach, in line with international human rights law, to all inquiries into the historical abuse of women and children.
- Abolish redress scheme waivers that prevent survivors from exercising their constitutional rights.

#### **Freedom of Religion or Belief**

- Amend Article 40.6.1 of the Constitution to remove the offence of blasphemy from Irish law.
- Replace the religious oaths in Articles 12.8, 31.4 and 34.5 of the Constitution and all oaths in court with neutral declarations.

#### **The Right to Education**

- Amend Section 15 of the Education Act 1998, Section 7(3)(c) of the Equal Status Act 2000, and Section 37(1) of the Employment Equality Act 1998 to oblige publicly funded schools to deliver educational services, including employment, state curriculum and enrolment, in an objective and pluralistic manner.
- Accelerate the divestment programme for primary and post-primary schools and ensure the widest possible availability of multi and non-denominational schools.

#### **The Rights of Persons with Disabilities**

- Publish a roadmap of legislative reforms and set a concrete timeline for UNCRPD ratification.
- Publish a plan for the full commencement of the EPSEN Act 2004, Disability Act 2005, and Citizens Information Act 2007.
- Introduce a statutory transport subsidy scheme for people with disabilities.
- Remove barriers to employment for people with disabilities.

- Legislate to officially recognise Irish Sign Language.

### **Legal Protection of Economic, Social and Cultural (ESC) Rights**

- Withdraw the State's reservations under ICESCR and ratify OP-ICESCR.
- Respond to the recommendation of the Constitutional Convention on ESC rights.
- Bring Ireland's equality legislation in line with Article 2(2) ICESCR by widening the grounds upon which discrimination is prohibited, including socio-economic status.

### **Right to the Highest Attainable Standard of Health**

- Provide a concrete plan and timeline for the roll out of universal healthcare.
- Introduce targeted measures to combat overcrowding and waiting times in access to healthcare.
- Whilst transitioning to universal healthcare, introduce a common waiting list for treatment in publicly funded hospitals for private and public patients.
- Publish the National Sexual Health Strategy with appropriate focus on prevention of HIV/AIDS.
- Efforts targeting opiate, non-opiate and poly-substance use should be introduced.

### **Right to Adequate Housing**

- Prioritise the family homelessness crisis with a view to introducing immediate relief and long-term solutions.
- Increase and fast-track the provision of social housing.
- Expand the State legal aid scheme to include cases involving eviction from social housing.
- Extend the remit of the PRTB to local authority tenancies, including social housing eligibility, repairs/maintenance, rent and rent arrears.
- Introduce legislative and policy measures to ensure rent supplement/HAP can meet market rent.

### **The Right to Work**

- Adequately protect the right of freelance/atypical workers to collective bargaining.

### **Gender Equality**

- Ensure an independent review of the National Women's Strategy and devise a consultative process on its successor.
- Prioritise the submission of Ireland's combined 6<sup>th</sup> and 7<sup>th</sup> Periodic Reports to CEDAW.
- Set timeframes within which gender balance on corporate boards must be progressed and steps taken to reduce the gender pay gap.

### **Violence against Women**

- Sign and ratify the Istanbul Convention.
- Ensure consistent, independent, data collection on domestic and sexual violence.

- Make legislative provision to allow migrants who experience domestic violence to apply for independent residence permits.
- Adequately fund domestic and sexual violence support and advocacy services.

### **LGBTI Rights**

- Introduce legislation to regulate surrogacy and ensure legal provisions apply equally to same-sex and opposite-sex couples.
- Prioritise measures to address the discriminatory impact of Section 37(1) of the Employment Equality Act 1998.
- Extend protections against discrimination on the grounds of ‘gender identity’ and/or ‘gender expression’ in all equality policy and legislation.
- Ensure that Trans people have access to regional healthcare services and quality, timely specialist support services, including mental health services.
- Amend the Gender Recognition Act 2015 so that Trans and intersex young people can avail of legal recognition that is quick, transparent and accessible.
- Enact legislation to ensure LGBTI persons are no longer discriminated against in relation to pension provision.

### **Mental Health**

- Enact the Assisted Decision-Making (Capacity) Bill 2013 and ensure that it and the Mental Health Act 2001 comply with the UNCPRD.
- Strictly regulate non-consensual treatment.
- Train relevant healthcare staff on community-based care models and alternatives to non-consensual treatment and adopt holistic approaches for treatment options.
- Involve persons concerned in decisions around community-based living.
- Fully implement and update Ireland’s Mental Health Strategy including recommendations around social inclusion.

### **The Rights of Older People 2011**

- Introduce an implementation plan for the National Positive Ageing Strategy.
- Examine the impact of austerity measures on older people with a view to ensuring support services are sufficiently resourced.
- Introduce targeted measures to combat waiting times under the Nursing Home Support Strategy.
- Ensure that funding and allocation of home help hours matches the growing ageing population and demand for such service.
- Develop a care system which enables older people to have a choice around their long term care needs.

### **Reproductive Rights**

- Repeal Article 40.3.3 of the Irish Constitution.
- Decriminalise abortion by repealing sections 22 and 23 of the PLDPA 2013.
- Repeal the Abortion Information Act 1995.
- Provide a human rights compliant framework for abortion, in law and in practice.

### **The Rights of the Child**

- Fully incorporate the UN Convention on the Rights of the Child into domestic law.
- Enact legislation to fully implement Article 42A of the Constitution.
- Ratify the Second Optional Protocol to the UN Convention on the Rights of the Child.
- Ban corporal punishment in all settings.
- Increase investment in early childhood care and education to the current OECD average of 0.8 per cent GDP at a minimum.
- Legislate for the mandatory provision of confidential victim support services free of charge before, during and, for an appropriate time, after criminal proceedings, in line with Article 8 of the EU Victims' Directive.

### **Traveller and Roma Rights**

- Recognise Travellers as a distinct ethnic group without further delay.
- Develop and implement a progressive National Traveller and Roma Integration Strategy, in line with human rights commitments.
- Establish concrete measures to combat discrimination and ensure equal access and improved outcomes for Travellers and Roma in relation to education, employment, health, and participation.
- Introduce legally binding targets for municipal authorities so that adequate accommodation for Travellers is provided.

### **International Assistance and Cooperation**

- Make an explicit commitment to meet the UN target of 0.7% ODA/GNI by 2020.
- Establish greater coherence across government departments to ensure fiscal policies do not promote inequitable growth, contribute to further marginalisation of people and inequality between men and women in Ireland and internationally.
- Ensure Irish companies and individuals are adhering to international law including human rights standards and international best practice standards for business.
- Introduce periodic independent, participatory impact assessments of any major changes to the Irish tax code for potential spill-over effects on developing countries.

### **Immigration and Asylum/Domestic Workers**

- Amend the General Scheme of the International Protection Bill to address family reunification, best interests of the child and the legal framework for reception conditions.
- Pending abolition, significantly reform the direct provision system, and extend the remit of the Ombudsman for Children to include oversight of the direct provision system or alternative accommodation arranged by the Reception and Integration Agency.
- Undertake comprehensive immigration legislative reform, including giving greater protection to undocumented migrants, and amend the European Communities (Free Movement of Persons) (No. 2) Regulations 2006.
- Fully implement the ILO Domestic Workers Convention.
- Publish a National Action Plan to Prevent and Combat Human Trafficking.
- Develop a comprehensive victim identification and protection procedure with the involvement of civil society for the early identification of victims of trafficking.

- Ensure independent training and testing of interpreters.

### **Hate Crime and Discrimination**

- Legislate to introduce aggravated offences and enhanced sentencing where evidence of bias as a motivating or demonstrable factor exists.
- Monitor the implementation of hate crime laws from inception, focusing in particular on training, reporting, recording, investigation, prosecution and sentencing.
- Mainstream a victim orientation throughout the criminal justice system.

### **Prisons/Detention**

- Ratify OP-CAT and create an effective and independent National Preventative Mechanism to include a fully independent complaints mechanism, an Office of Prison Ombudsman and a strengthened Office of the Inspector of Prisons.
- Eliminate the practice of “slopping out” and bring prisons in line with international standards.
- Ensure that children’s detention centres guarantee, at a minimum, protection of rights provided by international law.
- Remove all children from adult prison.
- Increase and promote the use of existing alternatives to detention and to continue to legislate for additional effective alternatives to detention.

## Annex F

### List of additional issues raised during consultations

<b>The rights of persons with disabilities</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Make available adequate services for deaf prisoners who currently are one of the most vulnerable groups within the prison community.</li> </ul>	Irish Deaf Society

<b>The rights of older people</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Review the prescription charge policy for older people. For older people in receipt of multiple prescriptions, this increase in the cost of medicine has had very real repercussions.</li> </ul>	Age Action

<b>The rights of persons with disabilities</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Increase the size of car parking spaces to ensure greater accessibility for those with mobility issues.</li> </ul>	Private individual
<ul style="list-style-type: none"> <li>- Ensure that the Assisted Decision-Making (Capacity) Bill 2013 fully respects the right to legal capacity in accordance with Article 12 of the UN Convention on the Rights of Persons with Disabilities.</li> </ul>	NUI Galway The Centre for Disability Law and Policy
<ul style="list-style-type: none"> <li>- Prioritise and agree policy and funding for individualised solutions for persons with an intellectual disability based on assessed needs, including those with 24-hour nursing and medical needs requiring 24-hour nursing and medical care in the community.</li> </ul>	Private individual
<ul style="list-style-type: none"> <li>- Appoint a specific Ombudsperson for Intellectual Disability in addition to the role of Confidential Recipient.</li> </ul>	Private individual
<ul style="list-style-type: none"> <li>- Refrain from pathologising and medicating distress and use of psychotropic medication to restrain.</li> </ul>	Private individual

<b>Environmental rights/public health</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Conduct a review, in consultation with the public, of the emerging scientific information on the public and community health effects of High Volume Hydraulic Fracturing (HVHF)</li> </ul>	Love Leitrim
<ul style="list-style-type: none"> <li>- Comply with obligations of the Aarhus Convention, ratified by the Government in 2012, which ensures ‘the right of everyone to receive environmental information that is held by public authorities, the right to participate in environmental decision-making and the right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general’.</li> </ul>	Love Leitrim

<b>Right to life and right to freedom from torture or other inhuman or degrading treatment or punishment</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Review and if necessary strengthen legislation governing the search and inspection of suspected rendition flights to ensure that police authorities have the necessary power in this regard.</li> </ul>	Shannonwatch
<ul style="list-style-type: none"> <li>- Establish a robust and transparent system for identifying aircraft, operators and crews using Irish territory or airports to commit or assist abuses of human rights, including renditions.</li> </ul>	Shannonwatch
<ul style="list-style-type: none"> <li>- Establish an independent and impartial public inquiry into the use of Irish territory, and in particular Shannon airport, in renditions.</li> </ul>	Shannonwatch
<ul style="list-style-type: none"> <li>- Put in place procedures to ensure that weapons, munitions and associated equipment being transited through Irish territory and airspace are not destined for countries where they could be used to commit human rights violations and war crimes.</li> </ul>	Shannonwatch
<ul style="list-style-type: none"> <li>- Review and if necessary strengthen legislation to ensure that civil and police authorities have the necessary power to inspect any aircraft suspected to be carrying munitions or war.</li> </ul>	Shannonwatch

<b>Equality and Non-discrimination</b>	<b>Submitted by</b>
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<ul style="list-style-type: none"> <li>- Adequately resource the Equality Tribunal to combat current delays.</li> </ul>	St. Anthony's Park Community Development Initiative (Cork)
<ul style="list-style-type: none"> <li>- Put in place a system of sanctions for failure to comply with 'Public Duty' measures under the Human Rights and Equality Commission Act.</li> </ul>	St. Anthony's Park Community Development Initiative (Cork)

<b>The right to an adequate standard of living/ social security</b>	<b>Submitted by</b>
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<ul style="list-style-type: none"> <li>- Introduce a living wage in Ireland.</li> </ul>	Private individual
<ul style="list-style-type: none"> <li>- Take necessary steps to ensure adequate supports are in place for one- parent families, including a review of the impact of changes to rules governing the One Parent Family Allowance.</li> </ul>	Private individual
<ul style="list-style-type: none"> <li>- Ensure that individuals leaving the sex-trade are entitled to a social-protection payment and do not face any impediments due to the nature of their previous employment.</li> </ul>	Private Individual

<b>The rights of the child</b>	<b>Submitted by</b>
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<ul style="list-style-type: none"> <li>- Adopt a consistent legal age definition of a child that applies across all government departments and services.</li> </ul>	Cork Life Centre
<ul style="list-style-type: none"> <li>- Establish the required juvenile justice infrastructure that takes into account the specific vulnerabilities of children.</li> </ul>	Cork Life Centre
<ul style="list-style-type: none"> <li>- Strengthen community supports to divert young people away from the care and juvenile justice systems.</li> </ul>	Cork Life Centre
<ul style="list-style-type: none"> <li>- Fast track all legal cases of a sexual nature involving young people.</li> </ul>	Cork Life Centre
<ul style="list-style-type: none"> <li>- Review the role of social works to ensure that their case loads are set at a reasonable and realistic level.</li> </ul>	Cork Life Centre
<ul style="list-style-type: none"> <li>- Adopt necessary measures, particularly adequate resourcing for alternative education settings, to ensure that young people experiencing medical, mental health, social, behavioural and other issues are not excluded from the education system.</li> </ul>	Cork Life Centre
	Cork Life Centre



<ul style="list-style-type: none"> <li>- Establish a standardised and adequately resourced after care system available to all young people leaving the care system at 18.</li> <li>- Make available adequate training for judges and other legal professionals in child development and children’s rights.</li> <li>- Extend the Community Childcare Subvention Programme to all early years’ services; it should reform the administrative procedures so that families can take up subsidised places at any time of the year.</li> <li>- Ensure all paid childminders are regulated.</li> <li>- Publish a rights-based National Early Years Strategy accompanied by an adequately resource implementation plan. This should also address the inclusion of children with disabilities and children from minority groups such as Traveller and Roma children in early years services.</li> <li>- Ensure that Tusla – the Child and Family Agency is adequately funded and staffed to assess child protection referrals and respond to them in a timely and appropriate manner.</li> <li>- Put an end to the privatisation of care services.</li> </ul>	<p>Cork Life Centre</p> <p>Children’s Rights Alliance</p> <p>Children’s Rights Alliance</p> <p>Children’s Rights Alliance</p> <p>Children’s Rights Alliance</p> <p>Private Individual</p>
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<b>Asylum seekers</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Adopt all necessary measures to make further education accessible for asylum seekers, including economic accessibility.</li> </ul>	<p>Private individual/St Anthony’s Park</p>
<ul style="list-style-type: none"> <li>- Ensure that children born in Ireland do not have to seek asylum.</li> </ul>	<p>Private Individual/ Former Asylum Seeker</p>
<ul style="list-style-type: none"> <li>- Take steps to combat the trafficking of people for illicit purposes, such as cannabis cultivation, and ensure that these individuals are not placed in detention upon identification.</li> </ul>	<p>Private Individual</p>
<ul style="list-style-type: none"> <li>- Ensure that individuals in Direct Provision have access to adequate healthcare. This includes access to reproductive healthcare and mental health services.</li> </ul>	<p>Private Individual</p>

Travellers/Roma	Submitted by
<ul style="list-style-type: none"> <li>- Reform the law in relation to Licences. Section 19 of the Intoxicating Liquor Act 2003 needs to be repealed, to bring Ireland into compliance with the European Union Race Directive. This has a negative impact on the Traveller community.</li> </ul>	St Anthony's Park
<ul style="list-style-type: none"> <li>- Extend the remit of the Press Ombudsman to allow for greater powers to sanction media outlets in order to combat discriminatory stereotypes portrayed by the media.</li> </ul>	St Anthony's Park
<ul style="list-style-type: none"> <li>- Implement initiatives around Traveller horse ownership which is a cultural trait of many Travellers around the country.</li> </ul>	St Anthony's Park
<ul style="list-style-type: none"> <li>- Ensure that any targeted Garda task forces do not disproportionately impact on Roma or Travellers.</li> </ul>	St Anthony's Park
<ul style="list-style-type: none"> <li>- Ensure greater transparency and accountability for the underutilisation of grants in relation to the provision of culturally acceptable accommodation for travellers.</li> </ul>	Private Individual
<ul style="list-style-type: none"> <li>- Allocate funding to support local Traveller projects to develop the capacity and competence of members of the Traveller and Roma communities to partake in the political structures in Ireland and at a European level.</li> </ul>	Clondalkin Travellers Development Group / Tallaght Traveller Development Group
<ul style="list-style-type: none"> <li>- The State must ensure that the cultural history and heritage of Travellers is promoted, protected and acknowledged within the State curriculum, this can be achieved by the inclusion of Traveller representation on education boards and across all variants of the Irish education system.</li> </ul>	Clondalkin Travellers Development Group / Tallaght Traveller Development Group
<ul style="list-style-type: none"> <li>- Take into account the specific needs of women and members of the LGBT community within the Traveller and Roma communities in all future service level planning with a view to ensuring that specific and real action is taken to ensure inclusion of marginalised groups within the Traveller/Roma communities.</li> </ul>	Clondalkin Travellers Development Group / Tallaght Traveller Development Group

<ul style="list-style-type: none"> <li>- Ensure that a policy is in place to combat mental health problems and the risk of suicide, which exist in the Traveller/Roma community.</li> <li>- Specific actions, including affirmative actions as required, should be included in the HSE National Service and Operational Plans for implementation across the country, including in the areas of mental health, counselling, substance addiction services and suicide ideation.</li> <li>- Prioritise and implement anti-racism training and the development of codes of practice for service providers.</li> <li>- Implement the recommendations of the All Ireland Traveller Health Study.</li> <li>- Ensure that an ethnic identifier and appropriate staff training in data collection is applied across all Governmental Departments.</li> <li>- Ensure that Travellers are not stigmatised by the criminal justice system, by introducing “spent convictions” and an adequately resourced community return programme.</li> <li>- Apply pressure on other States to ensure that the rights of the Roma community are upheld.</li> </ul>	<p>Clondalkin Travellers Development Group / Tallaght Traveller Development Group</p> <p>Clondalkin Travellers Development Group / Tallaght Traveller Development Group</p> <p>Clondalkin Travellers Development Group / Tallaght Traveller Development Group</p> <p>Clondalkin Travellers Development Group / Tallaght Traveller Development Group</p> <p>Clondalkin Travellers Development Group / Tallaght Traveller Development Group</p> <p>Pavee Point</p> <p>Pavee Point</p>
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<b>LGBTI Rights</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Introduce adequate measures to combat mental health problems in the transgender community.</li> </ul>	Private Individual
<ul style="list-style-type: none"> <li>- Ensure that transgender people can access healthcare tailored to their specific needs, in particular, for those wishing to transition to their preferred gender.</li> </ul>	Private Individual
<ul style="list-style-type: none"> <li>- Roll out a targeted advertising campaign, highlighting the harmful effects of harassment and discrimination against the LGBT community.</li> </ul>	Private Individual
<ul style="list-style-type: none"> <li>- Ensure that the rights of inter-sex people are respected. This includes the issue surrounding the imposition of gender at an early age.</li> </ul>	Private Individual

<b>Housing</b>	<b>Submitted by</b>
<ul style="list-style-type: none"> <li>- Allocate adequate resources to improve sub-standard conditions in various local authority flat complexes.</li> </ul>	Private individual
<ul style="list-style-type: none"> <li>- Introduce rent caps in the private rented sector to combat escalating rental prices.</li> </ul>	Private Individual
<ul style="list-style-type: none"> <li>- Consider the use of empty housing developments (ghost estates) to tackle the current lack of housing stock.</li> </ul>	Private Individual
<ul style="list-style-type: none"> <li>- Accept to be bound by Article 31 of the European Social Charter, which deals with the right to housing.</li> </ul>	Mercy Law Resource Centre/ Threshold
<ul style="list-style-type: none"> <li>- Amend the Housing Acts 1966 to 2014 by repealing those provisions which have been found to be incompatible with the European Convention on Human Rights.</li> </ul>	Threshold
<ul style="list-style-type: none"> <li>- Expedite the implementation of the Social Housing Strategy 2020 with a view to increasing the supply of social and affordable housing</li> </ul>	Threshold
<ul style="list-style-type: none"> <li>- Introduce legislative measures to increase security of tenure for tenants.</li> </ul>	Threshold
<ul style="list-style-type: none"> <li>- Ensure that tenants in mortgaged properties are afforded effective protection from eviction.</li> </ul>	Threshold
<ul style="list-style-type: none"> <li>- Increase maximum rent supplement and housing assistance payment limits with a view to ensuring that those whose means are insufficient to meet their housing needs are able to access accommodation in the private rented sector.</li> </ul>	Threshold
<ul style="list-style-type: none"> <li>- Ensure that local authorities fulfil their statutory function of inspecting and enforcing minimum standards in rented dwellings.</li> </ul>	Threshold
<ul style="list-style-type: none"> <li>- Take steps to ensure that the non-payment of water charges will not result in the termination tenancies.</li> </ul>	Threshold

<b>Mental Health</b>	<b>Submitted by</b>
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- Develop larger and newer mental health advocacy services around the country.	Private individual
- Increase allocation of funding to mental health service providers through non-statutory agencies to increase advocacy capacity.	Private individual
- Conduct a review of the management of mental health accommodation.	Private individual
- Ensure consistency of psychiatric care and review the current rotation system of doctors.	Private individual

<b>End of life</b>	<b>Submitted by</b>
- Make provision in Irish law to allow terminally ill people to die with dignity.	Private individual

<b>The rights of persons in Prison or Detention</b>	<b>Submitted by</b>
- Ensure that the HIQA Standards for Inspection reflect at least the minimum standards of care and treatment required by international human rights law including the UN Convention on the Rights of the Child.	Irish Penal Reform Trust
- Introduce safe custody limits in line with the capacity of the single cell estate.	Irish Penal Reform Trust
- Ensure that “ <i>An Effective Response to Women who Offend</i> ” <i>Joint Probation Service – Irish Prison Service Strategy 2014 – 2016</i> is fully resourced and operationalised at the earliest opportunity.	Irish Penal Reform Trust
- Review the current system in order to assess if it reflects the requirements of the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders [Bangkok Rules].	Irish Penal Reform Trust
- Progress the establishment of a female open prison as recommended by the Strategic review Group on Penal Policy and Rule 45 of the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders [Bangkok Rules].	Irish Penal Reform Trust



<p>support, to a diverse range of national, regional and international NGOs providing advice, protection and support to human rights defenders.</p> <ul style="list-style-type: none"> <li>- Continue to ensure that embassy staff proactively implement the Guidelines for Irish Embassies and Missions for the protection of human rights defenders.</li> <li>- Demonstrate international leadership by enacting specific national legislation which enshrines the right to access and communicate with international human rights bodies and which prohibits any form of intimidation or reprisal in association with such communication.</li> </ul>	<p>International Service for Human Rights</p> <p>International Service for Human Rights</p> <p>International Service for Human Rights</p>
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## **Annex G**

### **Text of Constitutional Referendum on Marriage Equality**

The constitutional amendment approved by the People of Ireland inserted a new Article into the Constitution which reads:

#### **Article 41(4)**

‘Marriage may be contracted in accordance with law by two persons without distinction as to their sex’.

### **Text of Constitutional Amendment on Children**

The constitutional amendment approved by the People of Ireland inserted a new Article into the Constitution which reads:

#### **Children – Article 42A**

- 1 The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights.
- 2.1 In exceptional cases, where the parents, regardless of their marital status, fail in their duty towards their children to such extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.
- 2.2 Provision shall be made by law for the adoption of any child where the parents have failed for such a period of time as may be prescribed by law in their duty towards the child and where the best interests of the child so require.
- 3 Provision shall be made by law for the voluntary placement for adoption and the adoption of any child.
- 4.1 Provision shall be made by law that in the resolution of all proceedings –
  - (i) brought by the State, as guardian of the common good, for the purpose of preventing the safety and welfare of any child from being prejudicially affected, or
  - (ii) concerning the adoption, guardianship or custody of, or access to, any child the best interests of the child shall be the paramount consideration.
- 4.2 Provision shall be made by law for securing, as far as practicable, that in all proceedings referred to in subsection 1<sup>o</sup> of this section in respect of any child who is capable of forming his or her own views, the views of the child shall be ascertained and given due weight having regard to the age and maturity of the child.



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<sup>1</sup>Further information about this UPR Campaign, including video and photographs is available from: <http://www.rightsnow.ie/> [Accessed 17 September 2015].

<sup>2</sup> See Annex A for members.

<sup>3</sup> For a list of consultations and events see Annex B.

<sup>4</sup> For list of submissions see Annex C.

<sup>5</sup> This report is endorsed by 52 non-governmental organisations (NGOs), trade unions and civil society groups. All of the views expressed in the report do not necessarily reflect the policies and positions of each endorsing organisation. For a full list of endorsing organisations, refer to ANNEX D.

<sup>6</sup> 127 recommendations were made to Ireland, 108 were accepted or partially accepted, 9 were rejected. Report of the Working Group on the Universal Periodic Review, Ireland, A/HRC/19/9. Available from: [http://www.rightsnow.ie/assets/60/E91603AB-AE06-94B9-F9BFA56D21A3ABED\\_document/UPR\\_HRC\\_Working\\_Group\\_Report\\_on\\_Ireland\\_Dec\\_2011.pdf](http://www.rightsnow.ie/assets/60/E91603AB-AE06-94B9-F9BFA56D21A3ABED_document/UPR_HRC_Working_Group_Report_on_Ireland_Dec_2011.pdf) [Accessed 17 September 2015].

<sup>7</sup> In its review of Ireland's Third Periodic report in 2015, the UN Committee on Economic, Social and Cultural Rights drew particular attention to the lack of disaggregated and up-to-date data, Concluding observation on third periodic report of Ireland, E/C.12/IRL/CO/3, para 6. Available from: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en) [Accessed 17 September 2015].

<sup>8</sup> Recommendation 106.29, 106.56, Report of the Working Group on the Universal Periodic Review, Ireland, A/HRC/19/9.

<sup>9</sup> In particular older people, children, Travellers, Roma, people with disabilities, immigrants and asylum seekers. Concern was raised by many representative groups in relation to the impact of austerity measures since the economic crisis began in 2008 on service provision including organisations representing women, Travellers and Roma, persons with a disability, migrants and persons who are homeless.. For further information specifically regarding Travellers see: Harvey, B. (2013) *Travelling with Austerity: Impacts of cuts on Travellers, Traveller Projects and Services*. Dublin: Pavee Point Publications.

<sup>10</sup> The impact assessment carried out annually by the Department of Social Protection is confined to an analysis of social welfare and tax measures. Department of Social Protection (Jan 2015) *Research Briefing: Social Impact Assessment of the main welfare and tax measures for 2015*. Available at: <http://bit.ly/1F3AkYM> [Accessed 17 September 2015].

<sup>11</sup> Your Rights. Right Now (2011) *Ireland's Civil Society UPR Stakeholder Report*, p. 3. Available from: [http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_stakeholder\\_report\\_2011](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_stakeholder_report_2011) [Accessed 17 September 2015].

<sup>12</sup> Department of Foreign Affairs and Trade, Press Release, 25 March 2015, "Minister Sherlock chairs First Meeting of Inter-Departmental Committee on Human Rights". Available from: <https://www.dfa.ie/news-and-media/press-releases/press-release-archive/2015/march/minister-chairs-human-rights-committee/> [Accessed 17 September 2015].

<sup>13</sup> Including members of the public, Government departments, agencies, the business community and civil society groups.

<sup>14</sup> Despite the 2011 report on Ireland by the then Independent Expert on the question of human rights and extreme poverty, Ms Magdalena Sepúlveda Carmona, A/HRC/17/34/Add..2. Available from: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/132/17/PDF/G1113217.pdf?OpenElement> [Accessed 17 September 2015].

<sup>15</sup> The National Human Rights Institution. The Irish Human Rights Commission was established in 2000 as a result of the Good Friday Agreement and its stipulation of human rights parity north and south of the border.

<sup>16</sup> The Equality Authority was created under the Employment Equality Act 2008-2011 in 1999.

<sup>17</sup> The Irish Human Rights and Equality Commission (IHREC) is developing its first strategic plan and is engaging in widespread consultation with civil society

<sup>18</sup> Irish Human Rights and Equality Commission Act 2014. Available from: [http://www.ihrec.ie/download/pdf/ihrec\\_act\\_2014.pdf](http://www.ihrec.ie/download/pdf/ihrec_act_2014.pdf) [Accessed 17 September 2015].

<sup>19</sup> Irish Human Rights and Equality Commission Act 2014 s 42.

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- 1) Reducing the Presidential term to five years;
  - 2) Reducing the voting age to 17;
  - 3) Reviewing the Dáil electoral system;
  - 4) Giving citizens resident outside the State the right to vote in Presidential elections at Irish embassies, or otherwise;
  - 5) Provision for same-sex marriage;
  - 6) Amending the clause on the role of women in the home and encouraging greater participation of women in public life;

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- 7) Increasing the participation of women in politics;
  - 8) Removal of the offence of blasphemy from the Constitution;
  - 9) Following completion of the above report, such other relevant constitutional amendments that may be recommended.

Terms of reference of the Convention on the Constitution are available from:

<[https://www.constitution.ie/Documents/Terms\\_of\\_Reference.pdf](https://www.constitution.ie/Documents/Terms_of_Reference.pdf)> [Accessed 17 September 2015].

<sup>21</sup> Provision for same-sex marriage; reducing the age of presidential candidates from 35 to 21 (this arose out of consideration of reducing the Presidential term to five years).

<sup>22</sup> The Government has not yet responded to recommendations on economic, social and cultural rights, voting rights for those resident outside of the State. The Toiseach's (Prime Minister's) response to parliamentary questions on this issue on 9 June 2015 is available from:

<<https://www.kildarestreet.com/debates/?id=2015-06-09a.284>> [Accessed 17 September 2015].

<sup>23</sup> Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Covenant on Civil and Political Rights (ICCPR); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); Convention on the Rights of the Child (CRC).

<sup>24</sup> An exception includes the European Convention on Human Rights Act 2003 which gave effect to the European Convention on Human Rights in domestic law. However, the Convention was incorporated at sub-constitutional level limiting its potential impact.

<sup>25</sup> 106.1. **(accepted)** Complete the ratification process (Indonesia), consider the ratification (Chile, Ecuador) or the possibility of ratification (Argentina, Peru), ratify the Convention on the Rights of Persons with Disabilities (Austria, Canada, Greece, Iran, Iraq, Spain) already signed in 2007 (Algeria), at the earliest possible time/as soon as possible (France, Hungary). 106.2. **(accepted)** Become a party (Estonia), consider accession (Brazil), ratification (Chile), ratify the Optional Protocol to the Convention against Torture (OPCAT) (France, Greece, Slovenia, United Kingdom) and set up a national prevention mechanism that meets the criteria and guarantees under this instrument (Switzerland) 106.3. **(accepted)** Continue the efforts for a speedy ratification of the Optional Protocol to the Convention against Torture (Peru) 106.4. **(accepted)** Pursue efforts to ratify (Iraq), complete the ratification process (Indonesia), consider the possibility of ratifying (Argentina, Ecuador), ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED) (Spain) as soon as possible (France). 106.5. **(accepted)** Continue the process of accession to or ratification of the pending main international human rights instruments, in particular CED and the Convention on the Rights of Persons with Disabilities (CRPD) (Costa Rica). 106.6. **(accepted)** Consider the ratification (Chile, Ecuador), ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OPSCR) (Portugal, Slovenia, Turkey), as soon as possible (France). 106.10. **(accepted)** Ensure a comprehensive and effective incorporation of children's rights into its legal framework in line with the Convention on the Rights of the Child (CRC), by incorporating children's rights into the Constitution (Portugal). 106.11 **(accepted)** Give further effect to international human rights instruments in the domestic legislation, including from the provisions contained in the CRC (Indonesia). 107.1 **(partially accepted)** Sign and ratify the Optional Protocol to the CRPD (Austria, Spain). 107.2 **(accepted)** Continue the process of accession to or ratification of the pending main international human rights instruments, in particular OP-CRPD (Costa Rica). 107.3 **(partially accepted)** Withdraw its reservations to the International Covenant on Civil and Political Rights (ICCPR) (Brazil). 107.4. **(partially accepted)** Consider incorporating the right to health and the right to housing (Portugal) and sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) (Ecuador). 107.5 **(partially accepted)** Withdraw its reservations to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ICESCR and ICCPR (Iran). 107.6 **(rejected)** Ratify the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education (1960) (Hungary) and incorporate it into law (Iran) 107.7. **(partially accepted)** Adopt practical and legal measures to curb racial discrimination and discrimination against migrants and look at the appeal by UNESCO to ratify the Convention against Discrimination in Education (Uzbekistan). 107.9. **(accepted)** Ensure the comprehensive and effective incorporation of children's rights into Ireland's legal framework in line with the United Nations Convention on the Rights of the Child by incorporating children's rights into the Constitution (Cambodia). 107.10 **(accepted)** Urgently take measures necessary to ensure that the United Nations Convention on the Rights of the Child is fully implemented and incorporated into the legal and administrative system of Ireland (Sweden). 107.16 **(accepted)** Adopt laws to deal with the situation of persons not enjoying the highest level of physical and mental health with regards to the 2001 Act on Mental Health and bring its provisions in line with the CRPD (Spain). 107.37. **(accepted)** Sign the Council of Europe Convention on Violence against Women and Domestic Violence (Austria). 108.1 **(rejected)** Consider becoming a party to (Turkey); the possibility of (Argentina,

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Ecuador, Peru) signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Algeria, Egypt), incorporate it into law (Iran), and accede to its principles (Mexico).

<sup>26</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>27</sup> Discussed further in the section in this report dealing with the rights of persons with disabilities.

Dáil Debate, Written Answers No. 260 (7 October 2014), [38074/14]. Available from:

<<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2014100700062?openDocument#WRK02350>> [Accessed 17 September 2015].

See also, Report of the Ombudsman for Children to the UN Committee on the Rights of the Child on the occasion of the examination of Ireland's consolidated Third and Fourth Report to the Committee (April 2015), p. 2. Available from: <[http://www.oco.ie/wp-content/uploads/2014/03/OCO\\_AltReportUNCRC\\_2015.pdf](http://www.oco.ie/wp-content/uploads/2014/03/OCO_AltReportUNCRC_2015.pdf)> [accessed 17 September 2015]. See also, Dáil Debate, Written Answers No. 417, (8<sup>th</sup> April 2015), [16762/14]. Available from:

<<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2014040800069?openDocument#WRS03250>> [Accessed 17 September 2015].

<sup>28</sup> As part of the UPR process the Government committed to implementing the Inspection of Places of Detention Bill, which has not been enacted.

Dail Debate, Written Answers No. 415 (8 April 2014), [16760/14]. Available from:

<<https://www.kildarestreet.com/wrans/?id=2014-04-08a.1102>> [Accessed 17 September 2015].

Irish Penal Reform Trust, Press Release (8 May 2014) "Significant progress in reform of Ireland's penal system must continue". Available from: <<http://www.iprt.ie/contents/2622>> [Accessed 17 September 2015].

<sup>29</sup> Dáil Debate, Written Answers No. 416, (8<sup>th</sup> April 2014), [16761/14]. Available from:

<<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2014040800069?openDocument#WRS02850>> [Accessed 17 September 2015].

<sup>30</sup> As part of the ratification process the Government committed to implementing the Criminal Law (Incest) (Amendment) Bill, which has not been enacted. See report of the Ombudsman for Children to the UN Committee on the Rights of the Child on the occasion of the examination of Ireland's consolidated Third and Fourth Report to the Committee (April 2015), p. 2. Available from: <[http://www.oco.ie/wp-content/uploads/2014/03/OCO\\_AltReportUNCRC\\_2015.pdf](http://www.oco.ie/wp-content/uploads/2014/03/OCO_AltReportUNCRC_2015.pdf)> [Accessed 17 September 2015].

<sup>31</sup> Ireland signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 23 March 2012.

<sup>32</sup> Reservations include: Article 4 ICERD, Article 10(2), 14 20(1) ICCPR (Both articles deal with the issue of the incitement to hatred. The State's position is that these are incompatible with Article 40.6.1 of the Irish Constitution which protects free speech). Article 2(2) ICESCR and Article 13(2)(a) ICESCR, Article 16, 11(d) and (f) CEDAW and Articles 11(1) and 13(a). Reasoning available from:

<[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-3&chapter=4&lang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en#EndDec)> and

<[https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#EndDec)> [Accessed 17 September 2015].

<sup>33</sup> 107.40.(**accepted**) Institute a comprehensive statutory inquiry and compensation scheme in order to guarantee accountability and assist the (women and children) victims (of violence) (Thailand).

<sup>34</sup> Symphysiotomy, a controversial and dangerous 18th century operation that sections the symphysis pubis, was tested as a replacement for Caesarean section in a mass medical experiment begun in 1944 in publicly funded Catholic hospitals in Ireland. Done without women's knowledge or consent, the surgery left them with lifelong disability, pain and incontinence.

<sup>35</sup> Walsh, O. (2013) *Report on Symphysiotomy in Ireland 1944-1984*. Dublin: Department of Health.

Available at <http://health.gov.ie/wp-content/uploads/2014/07/Final-Final-walsh-Report-onSymphysiotomy1.pdf>

<sup>36</sup> In August, 2014, the UN Human Rights Committee recommended that the State establish an independent inquiry, prosecute the perpetrators and provide fair compensation. The State has failed to implement these recommendations. Human Rights Committee, concluding observations on the fourth periodic report of Ireland, CCPR/C/IRL/CO/4. Available from:

<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en)> [Accessed 17 September 2015].

<sup>37</sup> Further information on the Surgical Symphysiotomy Ex-Gratia Payment Scheme are available from:

<<http://www.paymentscheme.gov.ie/Symphysiotomy/Symphysiotomy.nsf/page/Terms%20of%20the%20Scheme%20and%20Application%20Forms-en>> [Accessed 17 September 2015].

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- <sup>38</sup> See Surgical Symphysiotomy Ex-Gratia Payment Scheme. Available from: <http://www.paymentscheme.gov.ie/Symphysiotomy/Symphysiotomy.nsf/page/Terms%20of%20the%20Scheme%20and%20Application%20Forms-en> > [Accessed 17 September 2015].
- <sup>39</sup> The list of persons covered in the deed of waiver include “all doctors, consultants, obstetricians, surgeons, medical staff, midwives, nursing staff, administrative staff, boards of management, associated with all hospitals or nursing homes, former hospitals or former nursing homes in the State whether public, private or otherwise and/or their insurers” and the “Medical Missionaries of Mary and/or any Religious Order involved in the running of any hospital and/or their insurers”. Deed of Waiver available from: [http://www.paymentscheme.gov.ie/Symphysiotomy/Symphysiotomy.nsf/00AFC8447AC15B2D580257D89003FA7AE/\\$file/SCHEDULE1-DeedofWaiverandIndemnity.doc](http://www.paymentscheme.gov.ie/Symphysiotomy/Symphysiotomy.nsf/00AFC8447AC15B2D580257D89003FA7AE/$file/SCHEDULE1-DeedofWaiverandIndemnity.doc) > [Accessed 17 September 2015].
- <sup>40</sup> Including in relation to oral testimony, in the administration of the scheme.
- <sup>41</sup> Survivor groups have reported that the scheme's refusal to take oral evidence or consider damage reports from independent medical experts has led to manifold injustices. Submission received from Survivors of Symphysiotomy (SOS). More information about SOS available from: <http://symphysiotomyireland.com/the-sos-ireland-campaign/> > [Accessed 17 September 2015].
- <sup>42</sup> Submission received from Survivors of Symphysiotomy (SOS). More information about SOS available from: <http://symphysiotomyireland.com/the-sos-ireland-campaign/> > [Accessed 17 September 2015].
- <sup>43</sup> In 2013, the Government issued a formal apology to women and girls who had been confined in private institutions run by religious orders known as ‘Magdalene Laundries’ and instituted a scheme of redress. The Taoiseach’s (Prime Minister’s) statement is available from: <http://static.rasset.ie/documents/news/kenny-magdelene-speech.pdf> > [Accessed 17 September 2015].
- <sup>44</sup> The scheme was established on the basis of the following report: Quirke, J. (2013) *The Magdalen Commission Report on the establishment of an ex gratia Scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen Laundries*. Available from: <http://www.justice.ie/en/JELR/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf/Files/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf> > [Accessed 17 September 2015].
- <sup>45</sup> Report of the Inter-Departmental Committee to establish the facts of State involvement with the Magdalen Laundries. Available from: <http://www.justice.ie/en/JELR/Pages/MagdalenRpt2013> > [Accessed 17 September 2015].
- <sup>46</sup> The Commission is required to address seven specific questions on the practices and procedures regarding the care, welfare, entry arrangements and exit pathways for the women and children who were residents of these institutions between 1922-1998. The primary function of the Commission is to establish the factual position in respect of the detailed matters set out in its Terms of Reference. Available from: <http://www.mbhcoi.ie/MBH.nsf/page/Terms%20of%20Reference-en> > [Accessed 17 September 2015].
- <sup>47</sup> 106.23.(**accepted**) Take measures to tackle racial discrimination and to combat more resolutely all forms of racism, xenophobia and religious intolerance against foreigners and religious minorities, including Muslims (Iran); 106.24(**accepted**) Fight Islamophobia and support its Muslim citizens, by enabling them to practise their religion (Iran); 106.55.(**accepted**) Support its Muslim citizens in enabling them to practise their religion (Turkey); 107.13.(**accepted**) Enhance legal action against all forms of discrimination on the basis of race, ethnic, language, religion or national origin, in particular comprehensive respect for human rights of foreigners regardless of their migratory status (Ecuador); 107.17.(**partially accepted**) Withdraw the provisions which entered into force on 1 January 2010 making blasphemy punishable as they may constitute an excessive limitation to the freedom of expression (France); 107.47.(**accepted**) Encourage diversity and tolerance of other faiths and beliefs in the education system by monitoring incidents of discrimination on the basis of belief (Turkey); 107.48. (**rejected**) Eliminate religious discrimination in access to education (Egypt);
- <sup>48</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from: [http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014) > [Accessed 17 September 2015].
- <sup>49</sup> Bunreacht na hEireann 1937, Article 40.6.1 – “The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.” Available from: [https://www.constitution.ie/Documents/Bhunreacht\\_na\\_hEireann\\_web.pdf](https://www.constitution.ie/Documents/Bhunreacht_na_hEireann_web.pdf) > [Accessed 17 September 2015].
- <sup>50</sup> Sections 36 and 37 of the Defamation Act, 2009 make the offence of blasphemy enforceable, if there is an utterance or publication of blasphemous material. Available from: <http://www.irishstatutebook.ie/2009/en/act/pub/0031/print.html> > [Accessed 17 September 2015].
- <sup>51</sup> Sections 36 and 37 of the Defamation Act 2009 should be repealed on foot of this. Sixth Report of the Convention on the Constitution (2014) *The removal of the offence of blasphemy from the Constitution January*. Available from:



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<https://www.constitution.ie/AttachmentDownload.ashx?mid=b96d3466-4987-e311-877e-005056a32ee4>  
[Accessed 17 September 2015].

<sup>52</sup> Bunreacht na hEireann 1937, Article 12.8 Article 31.4 Article 34.5.1

Available from: [https://www.constitution.ie/Documents/Bhunreacht\\_na\\_hEireann\\_web.pdf](https://www.constitution.ie/Documents/Bhunreacht_na_hEireann_web.pdf) [Accessed 17 September 2015].

<sup>53</sup> E.g. Christian Bible, Jewish Torah, Muslim Koran.

<sup>54</sup> There is an option not to swear a religious oath but this may reveal an individual's personal theistic philosophy in open court.

<sup>55</sup> 106.14.(**accepted**) Continue to provide support for human rights education and training domestically in order to enhance awareness and respect for human rights (Moldova); 106.15.(**accepted**) Take measures to make access available to people with disabilities, on an equal footing, to education, employment, housing, transport and cultural life and facilitate their access to public places and services (Costa Rica); 106.30.(**accepted**) Strengthen the measures to improve the representation, education and protection of Travellers; (Chile) 106.32.(**accepted**) Continue pursuing appropriate policies designed to provide for equal opportunities to members of the Traveller community, with special focus on access to health care, education and housing, including ensuring Travellers' participation in public life related decision-making process (Slovakia); 106.56.(**accepted**) Make available adequate budgetary allocations, despite financial constraints, for the continued provision and improvement of education and health services which are essential to protect the rights of the poorest and the most vulnerable members of society (Sri Lanka); 107.6.(**rejected**) Ratify the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education (1960) (Hungary) and incorporate it into law (Iran); 107.27.(**accepted**) Accelerate efforts in establishing a national network of schools that guarantee equality of access to children irrespective of their religious, cultural or social background (Malaysia); 107.47.(**accepted**) Encourage diversity and tolerance of other faiths and beliefs in the education system by monitoring incidents of discrimination on the basis of belief (Turkey); 107.48. (**rejected**) Eliminate religious discrimination in access to education (Egypt);

<sup>56</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014) > [Accessed 17 September 2015].

<sup>57</sup> The Forum on Patronage and Pluralism in the Primary Sector (2012) Report of the Forum's Advisory Group , p. 29. Available from: <https://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-AdvisoryGroup.pdf> > [Accessed 17 September 2015]. The percentage of schools with a religious patron increases significantly in rural areas meaning that enrolment in a denominational school is the only choice available to parents and children.

<sup>58</sup> Educate Together, Schools and StartUp Groups. Available from:

<http://www.educatetogether.ie/schools> > [Accessed 17 September 2015]. Six counties have no multid denominational schools - Cavan, Leitrim, Longford, Monaghan, Roscommon and Tipperary. Eight UN or Council of Europe Treaty Monitoring Bodies have previously recommended that the State takes appropriate steps to increase the number of non-denominational and multid denominational schools.

<sup>59</sup> See section 15 of Education Act, 1998. Available from:

<http://www.irishstatutebook.ie/1998/en/act/pub/0051/index.html> > [Accessed 17 September 2015].

<sup>60</sup> See Section 7(c) Equal Status Act 2000. Available from:

<http://www.irishstatutebook.ie/eli/2000/act/8/section/7/enacted/en/html> > [Accessed 17 September 2015].

<sup>61</sup> Section 7(c) of the Equal Status Act 2000 permits discrimination in enrolment policies, allowing schools promoting a particular religious ethos to prioritise children of a particular denomination for admission, including children from outside the local school catchment area, over local children from other faiths and children from non-religious or atheist backgrounds or families who prefer not to educate their children in a particular denomination. In its current form, draft legislation to reform school admissions does not propose to amend this provision.

<sup>62</sup> This results in parents of other denominations or none, including those who regard themselves as atheistic, having little or no choice but to enrol children in denominational education, particularly when no alternative option is available in their area. Mac Donald, S. (2015), 'Archbishop defends right of schools to put Catholics first in queue'. *The Irish Independent*. 5 August. Available from:

< <http://www.independent.ie/irish-news/news/archbishop-defends-right-of-schools-to-put-catholics-first-in-queue-31428462.html> > [Accessed 17 September 2015].

<sup>63</sup> A White Paper from the Department of Education and Skills on inclusivity which was to propose new guidelines on how to manage children opting out of faith formation, especially in areas where there is no choice

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of school patronage (Department of Education and Skills (2014) Forum on Patronage and Pluralism in the Primary Sector Progress to Date and Future Directions, p. 10) is no longer expected to be published – Minister for Education and Skills, Jan O’Sullivan TD, Dáil Debates, Written Answers, School Patronage, [12679/15], 31 March 2015, <<https://www.kildarestreet.com/wrans/?id=2015-03-31a.1102>> [Accessed 26 August 15].

<sup>64</sup> In addition, preparation for religious sacraments is conducted during school hours. Rule 68 of the Rules of National Schools states that “*Religious Instruction is by far the most important, as its subject-matter, God’s honour and service, includes the proper use of all man’s faculties, and affords the most powerful inducements to their proper use. Religious Instruction is, therefore, a fundamental part of the school course, and a religious spirit should inform and vivify the whole work of the school.*”

<sup>65</sup> **106.1. (accepted)** Complete the ratification process (Indonesia), consider the ratification (Chile, Ecuador) or the possibility of ratification (Argentina, Peru), ratify the Convention on the Rights of Persons with Disabilities (Austria, Canada, Greece, Iran, Iraq, Spain) already signed in 2007 (Algeria), at the earliest possible time/as soon as possible (France, Hungary). **106.5 (accepted)** Continue the process of accession to or ratification of the pending main international human rights instruments, in particular CED and the Convention on the Rights of Persons with Disabilities (CRPD) (Costa Rica). **106.15. (accepted)** Take measures to make access available to people with disabilities, on an equal footing, to education, employment, housing, transport and cultural life and facilitate their access to public places and services (Costa Rica). **106.16. (accepted)**. Continue with the efforts related to the protection of the rights of people with disabilities (Ecuador). **107.1. (partially accepted)** Sign and ratify the Optional Protocol to the CRPD (Austria, Spain). **107.2 (accepted)** Continue the process of accession to or ratification of the pending main international human rights instruments, in particular OP-CRPD (Costa Rica). **107.16 (accepted)**. Adopt laws to deal with the situation of persons not enjoying the highest level of physical and mental health with regards to the 2001 Act on Mental Health and bring its provisions in line with the CRPD (Spain).

<sup>66</sup> Particularly with regard to access to housing, employment, transport, education, cultural life, the National Disability Strategy, ratification of UNCRPD and Optional Protocol, Assisted Decision-Making (Capacity) Bill 2013. See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>67</sup> Dáil Debate, Written Answers No. 260 (7 October 2014), [38074/14]. Available from:

<<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2014100700062?opendocument>> [Accessed 17 September 2015].

<sup>68</sup> Sections of the Act not implemented include: right to individual educational plans and assessments of needs and institutions of appeals processes. National Council for Special Education (2014) *Children with Special Education Needs-Information Booklet for Parents*, p. 12. Available from:

<<http://ncse.ie/wpcontent/uploads/2014/10/ChildrenWithSpecialEdNeeds1.pdf>> [Accessed 19 June 2015].

<sup>69</sup> The two abolished supports were the Mobility Allowance and Motorised Transport Grant. Citizens Information, *Mobility Allowance*. Available from:

<[http://www.citizensinformation.ie/en/travel\\_and\\_recreation/transport\\_and\\_disability/mobility\\_allowance.html](http://www.citizensinformation.ie/en/travel_and_recreation/transport_and_disability/mobility_allowance.html)> [Accessed 19 June 2015]. Citizens Information, *Motorised Transport Grant*. Available from:

<[http://www.citizensinformation.ie/en/travel\\_and\\_recreation/transport\\_and\\_disability/motorised\\_transport\\_grant.html](http://www.citizensinformation.ie/en/travel_and_recreation/transport_and_disability/motorised_transport_grant.html)> [Accessed 19 June 2015]. Moreover there are concerns about the fact that not all intercity and rural routes are accessible outside of major cities and there are issues of inaccessible bus stops.

‘Does Ireland provide equal public transport to wheelchair users?’ *The Journal*. 17th August 2014. Available from: <<http://www.thejournal.ie/public-transport-wheelchair-access-1615874-Aug2014/>> (Accessed 19 June 2015).

<sup>70</sup> Kline, J. and Flynn, E., Dr. *Access to Justice for Children with Cognitive Disabilities-Ireland Country Report*, (April 2015) Centre for Disability Law and Policy and Mental Disability Advocacy Centre, p. 17.

Available from: <[http://www.nuigalway.ie/cdlp/projects/access\\_to\\_justice.html](http://www.nuigalway.ie/cdlp/projects/access_to_justice.html)> [Accessed 19 June 2015].

Kilcommins, S., et al (2013) *An International Review of Legal Provisions and Supports for People with Disabilities as Victims of Crime*, Irish Council for Civil Liberties Available from:

<<http://www.iccl.ie/news/2014/01/30/new-report-highlights-protection-gaps-for-crime-victims-withdisabilities.html>> [Accessed 9 September 2015].

<sup>71</sup> O’Donnell, J., (2015) ‘What does the employment landscape look like for people with disabilities?’ DFI Newsletter Employment Special. Available from:

<<http://www.disabilityfederation.ie/userfiles/file/May%20Employment%202015%20Newsletter.pdf>> [Accessed 9 September 2015].

<sup>72</sup> Government of Ireland (2011) *Programme for Government 2011-2016*, Dublin: Stationery Office, p.24.

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<sup>73</sup> Irish Sign Language (ISL), the indigenous language used by the Deaf community in Ireland, is still not officially recognized. (Irish Deaf Society, ‘Irish Sign Language Recognition: Information Leaflet’, Dublin: IDS). There are an estimated 40,000 ISL daily users of which 5000 are Deaf people who have difficulty in accessing public services and information on their rights and entitlements (Irish Deaf Society, ‘Irish Sign Language Recognition: Information Leaflet’, Dublin: IDS). Despite the clear recognition of native signed languages in the Convention on the Rights of Persons with Disabilities which Ireland has not yet ratified, proposed legislation to officially recognise ISL was rejected by the Seanad (Senate) in January 2014 (Recognition of Irish Sign Language for the Deaf Community Bill 2013). The Minister for State clarified that the Government did ‘not want to see scarce resources, particularly at this time of extremely scarce resources, used without the service being put in place’. (Kathleen Lynch TD, Minister of State with responsibility for Disability, Older People, Equality & Mental Health, Seanad Debates: Recognition of Irish Sign Language for the Deaf Community Bill 2013 – Second Stage, 22 January 2014). Coupled with a complete funding cut to the IDS Deaf Advocacy Service in 2014, which was later reversed as a temporary measure, it is not clear how the State intends to progress this important issue and ensure the rights of the Deaf Community are protected and respected. (Irish Deaf Society, Press Release, 11 September 2014, “Irish Sign Language Awareness Week: ‘Strengthening Human Diversity’”). [Accessed 18 August 2015]

<sup>74</sup> Irish Deaf Society, ‘Irish Sign Language Recognition: Information Leaflet’, Dublin: IDS.

<sup>75</sup> At the State’s third periodic review under the International Covenant on Economic, Social and Cultural Rights in June 2015, the State committed to publishing a roadmap and timescale for ratification within 3 months. To date neither has been published.

<sup>76</sup> **106.18.** Take the measures required to respect economic, social and cultural rights (Iraq); **(accepted)**; **106.29.** Maintain the strategies of holistic health and provisions of health care, with special emphasis on vulnerable groups, despite the budget cuts due to the economic crisis (Chile); **(accepted)**; **106.56.** Make available adequate budgetary allocations, despite financial constraints, for the continued provision and improvement of education and health services which are essential to protect the rights of the poorest and the most vulnerable members of society (Sri Lanka); **(accepted)**; **106.57.** Ensure the principle of equality and nondiscrimination while guaranteeing the enjoyment of the right to health (Brazil); **(accepted)**; **107.4.** Consider incorporating the right to health and the right to housing (Portugal) and sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) (Ecuador); **(accepted)**; **107.5.** Withdraw its reservations to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ICESCR and ICCPR (Iran); **(partially accepted)**.

<sup>77</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>78</sup> Update on recommendation 107.4

<sup>79</sup> The Convention was established by the Government in 2012 and was made up of 33 parliamentarians, 66 members of the public and an independent chair. The Convention examined a number of set issues and chose an additional issue to examine, which was the issue of giving greater constitutional protection to economic, social and cultural rights.

<sup>80</sup> Recommendation made 23 February 2014. Further information available from: <<https://www.constitution.ie>> and <<http://bit.ly/1zB2ZUq>> [Accessed 18 September 2015].

<sup>81</sup> This report was sent to the Government in March 2014. Available from:

<<https://www.constitution.ie/AttachmentDownload.ashx?mid=5333bbe7-a9b8-e311-a7ce-005056a32ee4>> [Accessed 18 September 2015]. The terms of reference for the Convention on the Constitution require government to respond within four months of receiving the Convention’s report on each issue.

<sup>82</sup> For example, Equal Status Acts 2000 – 2011.

<sup>83</sup> During its review of Ireland’s third periodic report in 2015, the UN Committee on Economic, Social and Cultural Rights recommended that Ireland adopt comprehensive anti-discrimination legislation in line with Article 2(2) of the ICESCR. E/C.12/IRL/CO/3, para.12. Available from:

<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en)> [Accessed 18 September 2015].

<sup>84</sup> While the 2015 health budget provided for no further reduction in funding, there has been an overall reduction of 16% in expenditure on health services between 2009 and 2014. Department of Health (2014) *First Annual Progress Report - National Carers Strategy*. Dublin: Department of Health.

<sup>85</sup> Resulting in overcrowding, long waiting times and delayed release of ambulances. Furthermore, managers at the Health Service Executive identified risks arising from resource reductions in its “corporate risk register”

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from March 2015. The register identified that critical posts are left vacant in areas such as maternity services and operating theatres due to the recruitment embargo and early retirement schemes, O'Brien, C. (2015) 'Demand and staff vacancies trigger HSE warning'. *The Irish Times*, 23 March. Available from: <http://bit.ly/1FMINQK> [Accessed 18 September 2015].

<sup>86</sup> UN Committee on Economic Social and Cultural Rights, concluding observations on the third periodic report of Ireland, E/C.12/IRL/CO/3, para. 27(a).

<sup>87</sup> Duncan, P. (2015) 'Varadkar says 60% of GPs join free under 6 scheme'. *The Irish Times*, 15 June. Available from: <http://www.irishtimes.com/news/health/varadkar-says-60-of-gps-join-free-under-6-scheme-1.2249242> [Accessed 18 September 2015].

<sup>88</sup> Further information available from: [http://www.citizensinformation.ie/en/health/entitlement\\_to\\_health\\_services/gp\\_visit\\_cards.html](http://www.citizensinformation.ie/en/health/entitlement_to_health_services/gp_visit_cards.html) [Accessed 18 September 2015].

<sup>89</sup> The Government has embarked on a reform programme for the health system, the aim of which is to deliver a single-tier health service, supported by Universal Health Insurance (UHI), where access is based on need and not simply on ability to pay. Further information available from: <http://health.gov.ie/future-health/universal-healthinsurance/> [Accessed 18 September 2015].

<sup>90</sup> Ireland is the only European country not to offer universal access to free or heavily subsidised GP care, and out-of-pocket GP costs are correspondingly much higher than in other countries. Nolan, A., Barry, S, Burke, S. & Thomas, S. (2014) "The impact of the financial crisis on the health system and health in Ireland" (paper for World Health Organisation). Available from: <http://bit.ly/1FN96WT> [Accessed 18 September 2015].

<sup>91</sup> Niall Mulligan and James Goulding, Irish Times, 1 December 2014, 'World Aids Day: How Ireland is living with HIV/AIDS for more than 30 years' available at: <http://www.irishtimes.com/opinion/world-aids-day-how-ireland-is-living-with-hiv-aids-for-more-than-30-years-1.2021216> [Accessed 18 September 2015]

<sup>92</sup> Department of Health, Sexual health. Available from: <http://health.gov.ie/healthy-ireland/healthprotection/sexual-health/> [Accessed 15 September 2015].

<sup>93</sup> The Minister of State for the National Drugs Strategy Aodhán Ó Ríordáin TD has indicated that proposal to eliminate legislative blockages in relation to reform of drugs policy will be brought to cabinet. See <http://www.irishtimes.com/news/social-affairs/drugs-meeting-finds-wide-consensus-on-decriminalisation-1.2301157> [Accessed 18 September 2015]

<sup>94</sup> This is due to various factors including inadequacy of rent supplement, particularly in Dublin given higher and rising rents, rising rents and repossession by banks, of private accommodation in mortgage arrears. See for example, Focus Ireland, Press Release, 16 December 2014, "Focus Ireland Warns that Government's Inaction on Rent Supplement and Rents Regulation is forcing more Families into Homelessness". Available from: <http://bit.ly/1E4eFM1> [Accessed 18 September 2015].

<sup>95</sup> Under Irish law, the State does not have an obligation to provide such accommodation. The Housing Act 1988 places particular responsibility on local authorities to provide for the accommodation needs of homeless persons. Local authorities are obliged to carry out regular assessments of accommodation needs in their area. The local authority is not obliged to provide housing in individual cases. The Act requires the local authority to take the needs of homeless people into account in an overall sense in its provision of housing under the Housing Acts. There is, however, no express obligation in the Act, nor in law, to provide emergency accommodation. Families, often with very young children, are regularly being accommodated by the State on a night to night basis or very temporary basis in different bed and breakfasts and hotels, most frequently in one room together, almost always with no cooking facilities, often long distances from the children's schools and the family supports. The figures available for those experiencing homelessness in Ireland are less detailed. In April 2015, 295 families experiencing homelessness were living in commercial hotels in Dublin and 63 new families presented as homeless in Dublin. Between 20 and 26 April 2015: 504 families, including 1118 children, were recorded as homeless in Ireland. In April 2015, 295 families experiencing homelessness were living in commercial hotels in Dublin and 63 new families presented as homeless in Dublin. Between 20 and 26 April 2015: 504 families, including 1118 children, were recorded as homeless in Ireland. Source: Department of the Environment, Community and Local Government, (April 2015) "Homeless Persons". Available from: [www.enviro.ie/en/Publications/.../FileDownload,41637,en,xlsx](http://www.enviro.ie/en/Publications/.../FileDownload,41637,en,xlsx) [Accessed 18 September 2015].

<sup>96</sup> Department of Social Protection (2015) *Rent Limit Analysis and Findings Report*. Available from: <https://www.welfare.ie/en/downloads/Maximum%20Rent%20Limit%20Analysis%20and%20Findings%20Report%20February%202015.pdf> [Accessed 18 September 2015].

<sup>97</sup> Rent Supplement is paid to people living in private rented accommodation who cannot provide for the cost of their accommodation from their own resources. Further information available from: [http://www.citizensinformation.ie/en/social\\_welfare/social\\_welfare\\_payments/supplementary\\_welfare\\_scheme/rent\\_supplement.html](http://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/supplementary_welfare_scheme/rent_supplement.html) [Accessed 18 September 2015].



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<sup>98</sup> Lyons, R. (2015) ‘Chronic supply shortages persist in the rental market’. Available from: <<https://www.daft.ie/report/ronan-lyons-2015q1-rental>> [Accessed 18 September 2015].

<sup>99</sup> Threshold, (October 2014) “*Pre-Budget Advisory on Rent Supplement*”. Available from: <[http://www.threshold.ie/download/pdf/threshold\\_advisory\\_report\\_on\\_rent\\_supplement.pdf](http://www.threshold.ie/download/pdf/threshold_advisory_report_on_rent_supplement.pdf)> [Accessed 18 September 2015].

<sup>100</sup> A new Housing Assistance Payment (HAP) is being rolled out in Ireland to replace rent supplement. (s37, Housing (Miscellaneous Provisions) Act 2014). To remain on a list for social housing, the household must apply to go on the housing “transfer” list. When approved for HAP, the household receives a letter and a form from the local authority to apply to go on the transfer list. The household has just two weeks from the date of the letter to apply to have any time spent on the housing list before entering HAP to be taken into account on the list. If a household does not so apply within that two week window, and applies later on, none of the time spent on the housing list is carried over to the transfer list. HAP represents a very important change to the social housing assistance landscape. Once a household is in receipt of HAP, they are deemed to have their housing need met and will be taken off or not put on the housing list. It is of real concern that the State, with this scheme, is moving from the social housing list system, which aims to provide secure long-term housing for those who are homeless, to a system that relies on the private rental sector to provide sufficient housing. There is no evidence that landlords are more willing to accept HAP than rent supplement.

<sup>101</sup> Budget 2015 announced that €2.2 billion had been allocated to a social housing investment programme over the next three years, with 7,500 houses to be provided in 2015. See housing section in Minister for Public Expenditure, (14 October 2014) “Address to Dáil on Expenditure Estimates 2015”. Available from: <<http://bit.ly/1zO8Nuj>> [Accessed 18 September 2015]. However, around 25,000 new homes are required per year to create adequate supply. EU Commission (2015) *Country Report Ireland 2015*. Available from: <<http://bit.ly/1E4e8ts>> [Accessed 18 September 2015].

See also, Kelly, O. (2015) ‘Over 42,000 on Dublin City Council housing waiting list’ *The Irish Times*, 14 July. Available from: <<http://www.irishtimes.com/news/social-affairs/over-42-000-on-dublincity-council-housing-waiting-list-1.2283900>> [Accessed 18 September 2015].

<sup>102</sup> , Department of the Environment, Community and Local Government, *Social Housing Strategy 2020, Support, Supply and Reform*, p. 6. Available from: <<http://www.environ.ie/en/PublicationsDocuments/FileDownload,39622,en.pdf>> [Accessed 18 September 2015].

<sup>103</sup> Including as a result of the increased level of repossessions of family homes in cases of intractable debt. By the end of 2014, a total of 110,366 mortgages on private homes were in arrears with almost 52% of those- more than 57,000 – in arrears for more than 360 days. ‘Residential Mortgage Arrears and Repossessions Statistics: Q1 - 4, 2014’, Central Bank of Ireland statistical release issued 6 March 2015. Available from: <<http://bit.ly/1zO8wap>> [Accessed 18 September 2015].

<sup>104</sup> See Private Residential Tenancies board. Information available from: <[http://www.prtb.ie/docs/default-source/rent-index/prtb-quarter-2-2014-finalreport-\(1\)-pdf.pdf?sfvrsn=2](http://www.prtb.ie/docs/default-source/rent-index/prtb-quarter-2-2014-finalreport-(1)-pdf.pdf?sfvrsn=2)> [Accessed 13 August 2015].

<sup>105</sup> Housing (Miscellaneous Provisions) Act 2014, sections 6 to 19; commenced by SI 121 of 2015.

<sup>106</sup> The District Court is the main court of summary jurisdiction in Ireland and the lowest court in the Irish Court system.

<sup>107</sup> Section 12 Housing (Miscellaneous Provisions) Act 2014.

<sup>108</sup> Section 28(9)(a)(ii) of the Civil Legal Aid Act 1995 provides that “*Subject to any order made under subsection (10) and to the other provisions of this subsection, legal aid shall not be granted by the Board in respect of any of the following matters... (ii) disputes concerning rights and interests in or over land*”. However, Section 28(9)(c)(i) as amended provides “*Notwithstanding the provisions of paragraph (a) and subject to the other provisions of this Act, legal aid may be granted — (i) in respect of proceedings under the Landlord and Tenant Acts, 1967 to 1994 (in so far as they relate to residential property), the Residential Tenancies Act 2004.*” Local authority tenancies are not covered by these Acts.

<sup>109</sup> The PRTB provides independent and impartial mediation and adjudication and is a financially efficient forum for landlords and tenants to make complaints to.

<sup>110</sup> Tenants of social housing cannot refer issues in respect of housing conditions, e.g. damp, mould, broken windows, to the independent adjudication of the PRTB. The tenant can only refer directly to the local authority and as such there is a clear imbalance in negotiating power to resolve the matter. A local authority tenant could potentially sue for damages for breach of contract in the District Court but in order to apply for injunctive relief they must go to the Circuit Court or High Court which are costly, extremely adversarial, and very intimidating particularly if a tenant has to represent themselves.

<sup>111</sup> Commenced on 1 August 2015.

<sup>112</sup> Industrial Relations (Amendment) Act 2015 (Commencement) Order 2015 (S.I. 329 of 2015).

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<sup>113</sup> **106.20.** Continue action including legislation to remove gender-based inequalities in the workplace, including wage disparities between men and women (Sri Lanka); **(accepted)**; **106.21.** Take additional measures to eliminate inequalities between women and men (Moldova); **(accepted)**; **106.59.** Further measures to eliminate the underrepresentation of women in decision-making roles, particularly in the political arena and as members of corporate boards (Ghana); **(accepted)**; **107.14.** Develop and adopt a gender parity law (France); **(accepted)**; **107.23.** Ensure the full implementation and undertake an independent assessment of the National Women's Strategy (Austria); **(partially accepted)**.

<sup>114</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

Particularly with regard to the implementation of the National Women's Strategy 2007-2016, representation of women in decision-making roles and especially in politics, gender-based inequalities in the workplace.

<sup>115</sup> Ireland accepted Recommendation 106.59 on this issue. In April 2011 the Government made a decision to advertise vacancies on State Boards. However, this decision was applied inconsistently until February 2015 when <[www.stateboards.ie](http://www.stateboards.ie)> was launched. While the European Social Fund PROGRESS is positive action that should be commended and reported on, this project is a pilot programme. Its focus is limited to a small number of civil servants, and its impact should not be overstated. Any actions focusing beyond the civil service within this programme will take place within a seminar or conference format and do not have any required outcomes beyond the provision of information. Government must clearly articulate the actions and directions that corporate boards must take, and demand action within a specific timeframe.

<sup>116</sup> The pay gap stood at 11 per cent at the introduction of the Strategy and now stands at 14.4 per cent. Government of Ireland (2007) *National Women's Strategy 2007-2016*, Dublin: Stationery Office, p. 27. As highlighted also FLAC, (November 2014) *Our Voices, Our Rights: a parallel report in response to Ireland's Third Report under the International Covenant on Economic, Social and Cultural Rights*, para. 7.2.

<sup>117</sup> The current Minister of State for Equality recently flagged his intention to initiate this process, but first a comprehensive and thorough independent evaluation of the current Strategy and its implementation is needed in order to plan effectively for a new Strategy and an accompanying action plan. This evaluation would allow for the identification of particular policy areas where implementation has been slow or non-existent, which will in turn inform a new Strategy.

<sup>118</sup> Information on the status of these reports from Department of Justice and Equality available from:

<<http://www.genderequality.ie/en/GE/Pages/CEDAW>> [Accessed 18 September 2015].

<sup>119</sup> **106.49.** Continue to strengthen its policies and laws against domestic violence (Algeria); **106.50.** Strengthen its policies and laws against domestic violence towards women (Moldova); **106.51.** Continue efforts with the aim of establishing protection campaigns and programmes for women against domestic violence (Argentina); **106.52** Submit rapidly its national report to the Committee on the Elimination of Discrimination against Women (CEDAW) that was due in 2007 and include a section on violence against women as requested by the Committee (Switzerland); **106.53.** Fully implement the relevant laws, policies and programmes aimed at combating domestic violence in the country (Malaysia); Enhance its efforts at the local level to better carry out the campaign against domestic violence (Switzerland); **107.37.** Sign the Council of Europe Convention on Violence against Women and Domestic Violence (Austria); **107.38.** Strengthen its policies and laws against domestic violence and prepare adequate statistics, including sex, age and family relationship of victims and perpetrators (Pakistan); **107.40.** Institute a comprehensive statutory inquiry and compensation scheme in order to guarantee accountability and assist the (women and children) victims (of violence) (Thailand).

<sup>120</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations, pp. 22-24, p. 35-37 Available at:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>121</sup> Ireland is one of only 9 countries out of 47 Council of Europe member States which has not signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

<sup>122</sup> It is contended that the barrier to signature and ratification identified by the Government is Article 52 of the Convention which provides for emergency barring orders which are not provided for under Irish law.

Notwithstanding the need to have such legislation in place in order to ratify the Convention, there is a clear need, in any event, for barring orders to be available outside of traditional Court hours, so that victims of domestic violence do not find themselves without protection for extended periods of time.

Recent new commitments by the Minister for Justice and Equality on the issue are available from:

<<http://www.justice.ie/en/JELR/Pages/PR15000436>>; <<http://www.rte.ie/news/2015/0724/716887-domestic-violence-barring-orders/>> [Accessed 21 September 2015].

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<sup>123</sup> In addition, the State should consider removing or amending the determination of property interest in issuing barring orders, in particular, where it conflicts with the best interests of the children.

<sup>124</sup> Similar concern was expressed by UN Human Rights Committee in 2014. UN Human Rights Committee concluding observations on Ireland's fourth periodic report, CCPR/C/IRL/CO/4, para. 8. See also recommendation 107.38 from Ireland's first UPR regarding statistics. Report of the Working Group on the Universal Periodic Review, Ireland, A/HRC/19/9. Available from:

<[http://www.rightsnow.ie/assets/60/E91603AB-AE06-94B9-F9BFA56D21A3ABED\\_document/UPR\\_HRC\\_Working\\_Group\\_Report\\_on\\_Ireland\\_Dec\\_2011.pdf](http://www.rightsnow.ie/assets/60/E91603AB-AE06-94B9-F9BFA56D21A3ABED_document/UPR_HRC_Working_Group_Report_on_Ireland_Dec_2011.pdf)> [Accessed 17 September 2015].

Despite the work of COSC (National Office for the Prevention of Domestic, Sexual and Gender-Based Violence) and its Data Committee, no public data exists on domestic violence offences and prosecutions.

<sup>125</sup> Ireland's Sexual Abuse and Violence in Ireland (SAVI) report was published in 2002. The newly-formed (2014) Child and Family Agency (TUSLA) has been tasked with data collection in this area; despite it being a government agency responsible primarily for improving outcomes and wellbeing of children.

<sup>126</sup> In 2014 the Dublin Rape Crisis Centre (DRCC)'s National 24 hour helpline took a total of 12,059 counselling contacts. There was a dramatic increase of 30% in first time contacts compared to 2013. There was an increase of 14% in the number of calls specifically relating to adult rape. (Dublin Rape Crisis Centre (DRCC): Annual Statistics for 2014. In relation to domestic violence in 2013, 46,137 helpline calls were answered and 8,033 individual women and 3,424 individual children received support from domestic violence support services. Safe Ireland, (2013) *Domestic Violence National Statistics 2013*. Available from: <[www.safeireland.ie](http://www.safeireland.ie)> [Accessed 18 September 2015]. Demand on services has greatly increased. For example the number of women receiving support from a domestic violence service has increased by over 36% from 2008 to 2012. Over the same time period core HSE funding to services has been cut by 14% in total, with some services being cut as much as 37%. Safe Ireland, (2014) *Safety in a time of Crisis 2014*. Available from: <[www.safeireland.ie](http://www.safeireland.ie)> [Accessed 18 September 2015]. Domestic and sexual abuse services were previously funded by HSE but now come under the remit of TUSLA, the Child and Family Support Agency).

<sup>127</sup> Safe Ireland, (2011) *Lifelines to Safety: A National Study of Support Needs and Outcomes for Women Accessing Domestic Violence Services in Ireland*. Available from: <[www.safeireland.ie](http://www.safeireland.ie)> [Accessed 18 September 2015]. Further cuts to domestic violence services are planned by TUSLA Child and Family Agency for 2015. Refuge provision remains inadequate and many women and children are unable to access refuge accommodation each year. In 2013, 3,494 requests for refuge could not be met because the refuge was full. Safe Ireland, (2014) *Safety in a time of Crisis 2014*. The Council of Europe recommends that there should be a target by member states of at least 1 refuge place per 10,000 of population and Ireland seriously lags behind this modest target. (Safe Ireland report that Ireland is ranked 24<sup>th</sup> in Europe, only meeting one third of the minimum standards for refuge provision, translating to 141 family places for women and children).

<sup>128</sup> The Habitual Residence Condition (HRC) is a qualifying condition for social welfare payments which was introduced on 1 May 2004 in response to EU enlargement. All persons seeking means-tested social welfare payments and Child Benefit after that date have been required to satisfy this condition. The HRC applies to Irish citizens as well as non-citizens but it is usually much easier for Irish citizens to show a sufficient connection to the Irish State in order to satisfy the Condition than for non-citizens. The five criteria used by the Department of Social Protection (formerly the Department of Social and Family Affairs) to determine whether a person satisfies the Habitual Residence Condition are: 1) The length and continuity of living in the State or another country; 2) The length and reasons for any absence from the State; 3) The nature and pattern of the person's employment; 4) The person's main centre of interest; 5) The future intentions of the person applying for the social welfare scheme. See Free Legal Advice Centres, *Guide to Habitual Residence condition*. Available from: <[http://www.flac.ie/download/pdf/habitual\\_residence\\_condition\\_guide\\_final.pdf](http://www.flac.ie/download/pdf/habitual_residence_condition_guide_final.pdf)> [Accessed 18 September 2015].

<sup>129</sup> For women trying to leave a situation of violence, if they do not have access to financial resources from the State, it can impact on their ability to successfully leave a violent relationship long term and it also impacts on their ability to access a refuge because a woman generally has to be in receipt of social welfare to access a refuge beyond an emergency period.

<sup>130</sup> Migrants experiencing domestic violence should also be provided with access safe emergency housing and essential welfare benefits, pending determination of applications to remain in Ireland. See Domestic Violence Coalition Submission to the Joint Oireachtas Committee May 2013. Available from <[www.womensaid.ie](http://www.womensaid.ie)> [Accessed 18 September 2015].

<sup>131</sup> **107.44.** Further reform the law on same-sex marriage and change the concept of the traditional family as enshrined in the Constitution (Spain); **(accepted)**; **107.45.** Amend Article 37 of the 1998 Employment Equality Act in order to prevent such discrimination against homosexuals and unmarried parents (Switzerland); **(partially accepted)**

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<sup>132</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations, p. 83-85. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>133</sup> The proposition passed with a majority of 62.07 per cent – 37.93 per cent per. See

<<http://www.referendum.ie/results.php?ref=10>> [Accessed 17 September 2015].

<sup>134</sup> Children and Family Relationships Act 2015. Available from:

<<http://www.irishstatutebook.ie/eli/2015/act/9/enacted/en/html>> [Accessed 18 September 2015].

<sup>135</sup> In February 2015, ‘The Government indicated it had agreed to prepare new laws to regulate surrogacy and the broader area of assisted human reproduction and associated research including in relation to surrogacy; embryo donation; the screening of embryos for serious genetic diseases; gamete (sperm or egg) donation; stem cell research – See: <[http://merrionstreet.ie/en/News-Room/Releases/Govt\\_to\\_legislate\\_for\\_Assisted\\_Human\\_Reproduction\\_Associated\\_Research.html](http://merrionstreet.ie/en/News-Room/Releases/Govt_to_legislate_for_Assisted_Human_Reproduction_Associated_Research.html)> [Accessed 18 September 2015]. However, concern was expressed at the removal of surrogacy provisions from the original author of the Bill. See Irish Times, 30 Mar 2015, Removing surrogacy from Bill ‘a breach of faith’, says [former Minister for Justice and Equality] Alan Shatter, available from: <<http://www.irishtimes.com/news/crime-and-law/removing-surrogacy-from-bill-a-breach-of-faith-says-alan-shatter-1.2155873>> [Accessed 18 September 2015]. Note: Previous Heads of the Children and Family Relationships Bill 2014 contained provisions on surrogacy.

<sup>136</sup> This includes a requirement for parental consent, statements from two medical practitioners and a court order. This is an onerous process which will prevent many young people from being formally recognised.

<sup>137</sup> Section 6 of the Employment Equality Act 1998. Available from:

<<http://www.irishstatutebook.ie/eli/2000/act/8/section/3/enacted/en/html#sec3>> [Accessed 18 September 2015]

and Section 3(2) of the Equal Status Act 2000 lists nine grounds under which discrimination in employment and in the provision of goods and services is prohibited. These are: family status, civil status, age, sexual orientation, gender, race, disability, religion or membership of the Traveller community. Available from:

<<http://www.irishstatutebook.ie/eli/1998/act/21/section/6/enacted/en/html#sec6>> [Accessed 18 September 2015].

<sup>138</sup> Section 37(1) Employment Equality Acts 1998-2011. In 2013, the Employment Equality (Amendment) Bill 2013 was introduced by private members’ bill. The Bill has yet to be enacted. Senior Government officials recently indicated that legislation will be amended to strengthen provisions against discrimination. Available from: <<http://www.labour.ie/press/2015/07/02/labour-ministers-announce-action-to-remove-discrim/>> [Accessed 18 September 2015]. However, concern has also been raised that the proposed legislation falls short of guaranteeing equal access to employment for LGBTI persons, see. ‘INTO says Employment Equality Bill is progress against discrimination but it does not go far enough’. Available from:

<<http://www.into.ie/ROI/NewsEvents/PressReleases/PressReleases2014/EmploymentEqualityBill201311414/Title.32978.en.php>> [Accessed on 18 September 2015].

<sup>139</sup> The Bill passed all stages in the Seanad on 9<sup>th</sup> July 2015 and is due before the Dáil in the coming months. The Bill has been welcomed as a milestone in addressing the impact of Section 37.1.

<sup>140</sup> Serving and former civil servants appointed prior to 1<sup>st</sup> September 1984 and who exercised the option in 1984 not to join the Revised Spouses' and Children's Superannuation Scheme

<sup>141</sup> Section 81E(5) of the Pensions Act 1990, as amended by section 22 of the Social Welfare (Miscellaneous Provisions) Act 2004. Available from:

<<http://www.irishstatutebook.ie/eli/2004/act/9/section/22/enacted/en/html#sec22>> [Accessed 18 September 2015].

<sup>142</sup> Recommendation **107.16** – “Adopt laws to deal with the situation of persons not enjoying the highest level of physical and mental health with regards to the 2001 Act on Mental Health and bring its provisions in line with the CRPD (Spain).”

<sup>143</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015]. In particular it noted the publication of the Assisted Decision- Making (Capacity) Bill 2013 and the review of the Mental Health Act 2001 by an Expert Group. Update on 107.16 in Government mid-term report (get para number) “The Assisted Decision-Making (Capacity) Bill 2013 was published on 17 July 2013 and provides a series of options to support people who have difficulties in terms of decision making capacity to exercise autonomy in decision-making to the greatest extent possible, in line with the principles contained in UN CRPD. Consideration of the Bill by the Oireachtas (Houses of Parliament) began in December 2013. The Mental Health Act 2001 is currently being reviewed by an Expert Group which was set up by the Minister. The review will introduce a rights based approach to mental health



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legislation and will prioritise the needs of the person using our services in the first instance. The final report of the Expert Group carrying out the review is expected by the end of March, 2014.” Concerns have been raised that the recommendations of the report of the Expert Group on the Mental Health Act are not in line with the UNCRPD.

<sup>144</sup> The Bill completed the committee stage on 17 June 2015. House of the Oireachtas, Bills 1997-2015, Assisted Decision-Making (Capacity) Bill,

<<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2013/8313/document1.htm>>

[Accessed 19 June 2015].

<sup>145</sup> This includes the issue of advance directives which are not binding in cases of involuntary detention. Eilionoir Flynn, ‘Advance Directives and Ireland’s New Capacity Legislation’ Human Rights in Ireland (5 February 2014). Available from: <<http://humanrights.ie/mental-health-law-and-disability-law/advance-directivesand-irelands-new-capacity-legislation/>> [Accessed 10 September 2015].

<sup>146</sup> The Assisted Decision-Making (Capacity) Bill 2013 available from:

<<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2013/8313/document1.htm>>

[Accessed 19 June 2015].

<sup>147</sup> The Expert Group in its review, recommended a redefinition of consent, to “also include consent given by a patient with the support of a family member, friend or appointed ‘carer’, ‘advocate’ or support decision maker appointed under the proposed capacity legislation”. However, during consultations, concern was expressed that mental health service users will not be able to fully avail of this support under the terms of the Assisted Decision-Making (Capacity) Bill. The Bill in its current form provides for the appointment of a ‘decision-making assistant.’ Nevertheless, concern was expressed that “all a clinician would need to do to challenge any decision made with the support of a decision-making assistant is to request a capacity assessment. If the person is assessed as lacking mental capacity on that point (according to section 10(7)(b) of the proposed new Bill), which is highly likely if they are making use of the expanded definition of ‘consent’, then the decision can be over-ridden. The introduction of mental capacity requirements in ‘assisted decision-making agreements’ is likely then to divert resources to onerous mental capacity testing and ongoing coercive practices.” Concern was expressed that “assessing capacity will become the focus rather than understanding and facilitating individual support needs. Statutory bodies concerned with training care staff, we fear, will focus on how to question someone’s capacity rather than helping staff to address social support needs and support a person’s decision making.” See also: Equality, Dignity and Human Rights-Does the Assisted Decision Making (Capacity) Bill 2013 fulfil Ireland’s human rights obligations under the Convention on the Rights of Persons with Disabilities.

Available from: <[http://www.nuigalway.ie/cdlp/documents/amendments\\_to\\_bill.pdf](http://www.nuigalway.ie/cdlp/documents/amendments_to_bill.pdf)>

[Accessed 06 August 2015]. Eilionóir Flynn and Piers Gooding, ‘Warning over ‘assisted decision-making’ plans in new Bill’ The Irish Times (19 June 2015). Available from:

<<http://www.irishtimes.com/opinion/warning-over-assisted-decisionmaking-plans-in-new-bill-1.2254880>>

[Accessed 6 August 2015].

<sup>148</sup> During consultations, concern was expressed about the differences in standards applied to people who are voluntarily and involuntarily detained. Reference was made to lack of respect for the latter with one example given of people being told to stay in their pyjamas all day in certain mental health facilities. See Mental Health Reform, Guiding A Vision for Change –A Manifesto for Mental Health Reform (2012) 5, 14 available at: <<https://www.mentalhealthreform.ie/resources/manifesto-guiding-a-vision-for-change/>> [Accessed: 10 September 2015].

<sup>149</sup> In 2014, during its review of Ireland’s 4th Periodic Report under the ICCPR, the UN Human Rights Committee expressed its concern about the continued existence of such practices and made recommendations in that regard, CCPR/C/IRL/CO/4 para. 12.

<sup>150</sup> These include people with disabilities experiencing mental health difficulties, travellers, asylum seekers, the homeless and prison population. Mental Health Reform, Guiding A Vision for Change –A Manifesto for Mental Health Reform (2012) 5, 14, available at: <<https://www.mentalhealthreform.ie/resources/manifesto-guiding-a-vision-for-change/>> [Accessed: 10 September 2015]; Mental Health Reform, Ethnic Minorities and Mental Health-A Position Paper (May 2014). Available at

<[https://www.mentalhealthreform.ie/wpcontent/uploads/2014/10/Ethnic-Minorities-and-Mental-Health-A-position-paper\\_WEB.pdf](https://www.mentalhealthreform.ie/wpcontent/uploads/2014/10/Ethnic-Minorities-and-Mental-Health-A-position-paper_WEB.pdf)> [Accessed 9 September 2015].

<sup>151</sup> Mental Health Reform, *A Vision for Change Nine Years On: A coalition analysis of progress*, (June 2015)

<sup>152</sup> Mental Health Reform, *A Vision for Change Nine Years On: A coalition analysis of progress*, (June 2015). available from: <<https://www.mentalhealthreform.ie/a-vision-for-change-9-years-on/>> [Accessed: 2 September 2015]. *Statement for Minister of State Sherlock-IESCR Review* (8 June 2015). Available from:

<[http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IRL/INT\\_CESCR\\_STA\\_IRL\\_55\\_23533\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IRL/INT_CESCR_STA_IRL_55_23533_E.pdf)> [Accessed 11 September 2015].

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<sup>153</sup> **106.35.** Ensure specifically that economic measures do not disproportionately impact upon the elderly (Netherlands); **(accepted)**; **107.12.** Strengthen the legal framework for the protection of the rights of children and the rights of other vulnerable groups such as women, the elderly, people with disabilities and the community of Travellers (Peru) (partially **accepted**).

<sup>154</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015]. p. 18, 30

<sup>155</sup> The property tax and particularly the lack of waiver system for those on low incomes has been identified as having an especially damaging impact. The latest official poverty statistics from the Central Statistics Office indicate that 9.2% of people aged 65 years and over were ‘at risk’ of poverty in 2013. Since 2009, the income of an older person dependent on the State pension and the Household Benefits Package has fallen by €13.18 per week. This amounts to almost 5 per cent of their income since 2009. Research undertaken by the Vincentian Partnership for Social Justice in 2013 (VPSJ (2013) Changes in the cost of a MESL in Comparison to CPI Inflation – available at <http://www.budgeting.ie> noted that while overall CPI fell by 0.15% in the period 2008 to 2013, the cost of a Minimum Essential Standard of Living for a lone pensioner and a pensioner couple rose by 5.03% and 7.34% respectively.

<sup>156</sup> In particular, the costs of heating, lighting and fuel have risen substantially in recent years. In their latest, available research, the Vincentian Partnership for Social Justice, - see V PSJ (2015) *Minimum Essential Standard of Living 2015* – available at <http://www.budgeting.ie> - which takes account of last year’s increase, says that pensioners living alone face a shortfall against the minimum standard of €16.07 for those on a non-contributory pension, and €6.47 for those on a contributory pension.

<sup>157</sup> Citizens Information, Budget 2014, Medical cards and GP Visit Cards, ‘The income limits for medical cards for people aged over 70 will reduce from €600/€1,200 per week (single person/couple) to €500/ €900 per week.’ Available from: <[http://www.citizensinformation.ie/en/money\\_and\\_tax/budget\\_2014.html](http://www.citizensinformation.ie/en/money_and_tax/budget_2014.html)> [last accessed on 18 September 2015].

<sup>158</sup> For older people in receipt of multiple prescriptions, this increase in the cost of medicine has had very real repercussions. In 2013, 18 per cent of all medical card prescriptions were for six items or more (HSE (2013) *PCRS Statistical Analysis of Claims and Payments 2013* available at <http://www.hse.ie/>). As people age, they require more medication. Thirty-one per cent of over 65s have five or more prescriptions, rising to 36 per cent in the over 75s (<http://tilda.tcd.ie/assets/pdf/PolypharmacyReport.pdf>). Prescription charges under the DPS scheme at the moment amount to €1,728 per year. This is a very substantial portion of an older person’s income, almost a month’s income for a person on a gross income of €501 per week.

<sup>159</sup> In 2014 there was a waiting list of more than 2,000 people and a waiting time of fifteen weeks. In 2013 the waiting time was 1 week and in 2015 this has risen to 4 weeks. In April 2015, 23,924 people were being supported under the Nursing Home Support Scheme. The allocated additional funding in Budget 2015 (€10 million) and April (€44 million) has helped but waiting times remain far higher than in 2013 when the waiting time was 1 week and 23,775 people were being supported under the scheme.

<sup>160</sup> The Nursing Home Support Scheme Act 2009 provides for State financial support for long term care in a nursing home. There are clear eligibility rules regarding the Scheme. Accessing long term care in the community is discretionary, eligibility and types of supports provided are subject to local policies and resources. Hence, many older people are not afforded the opportunity to remain living in their own homes, available from: <<http://www.irishstatutebook.ie/eli/2009/act/15/enacted/en/html>> [Accessed 21 September 2015].

<sup>161</sup> There has been an increase of 11 per cent in the number of people aged 85 and over in the last three years.

<sup>162</sup> The number of hours in 2012 were 10.3 million, available at <http://health.gov.ie>

<sup>163</sup> The number of recipients has fallen from 48,013 in 2012 to 47,061 in 2014 Department of Health (2011) *Comprehensive Review of Expenditure* – available at <http://health.gov.ie>

<sup>164</sup> National Positive Ageing Strategy 2013, available from: < [http://health.gov.ie/wp-content/uploads/2014/03/National\\_Positive\\_Ageing\\_Strategy\\_English.pdf](http://health.gov.ie/wp-content/uploads/2014/03/National_Positive_Ageing_Strategy_English.pdf)> [Accessed 21 September 2015].

<sup>165</sup> **108.4. (rejected)** Bring its abortion laws in line with ICCPR (Norway); **108.5. (rejected)** Introduce legislation to implement the European Court of Human Rights judgement in the A, B and C versus Ireland case (United Kingdom); **108.6. (rejected)** Take measures to revise the law on abortion with a view to permitting termination of pregnancy in cases where pregnancy is a result of rape or incest, or in situations where the pregnancy puts the physical or mental health or wellbeing of the pregnant woman or the pregnant girl in danger (Denmark); **108.7. (rejected)** Allow abortion at least when pregnancy poses a risk to the health of the pregnant woman (Slovenia); **108.8. (rejected)** Adopt legislative measures that guarantee greater integration of women as well as safeguards for their personal rights and reproductive health care and reform the Offences against the Person Act of 1861 to decriminalize abortion under certain circumstances (Spain); **108.9. (rejected)** Ensure that

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the establishment of an expert group on abortion matters will lead to a coherent legal framework including the provision of adequate services (Netherlands);

<sup>166</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015]. Particularly referring to The Protection of Life during Pregnancy Act, 2013, which was enacted as the state's implementation measure for the judgment of the European Court of Human Rights in *A, B and C v Ireland* (Application No. 25579/05. [2010] ECHR 2032) and *Attorney General v. X*, ([1992] 1 I.R. 1.)

<sup>167</sup> Article 40.3.3, Bunreacht Na hEireann, 1937, - “*The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.*” Available from:

<[https://www.constitution.ie/Documents/Bhunreacht\\_na\\_hEireann\\_web.pdf](https://www.constitution.ie/Documents/Bhunreacht_na_hEireann_web.pdf)> [Accessed 21 September 2015].

<sup>168</sup> As distinct from her health. See *Attorney General v. X*.

<sup>169</sup> At least 3700 women annually. Abortion in Ireland: Statistics. Irish Family Planning Association

<<https://www.ifpa.ie/Hot-Topics/Abortion/Statistics>> [Accessed 21 September 2015].

<sup>170</sup> For example, a pregnant woman could be coerced into unwanted medical interventions, in cases where her refusal would put the life of a viable foetus at risk. (National Consent Policy available from:

<[http://www.hse.ie/eng/about/Who/qualityandpatientsafety/National\\_Consent\\_Policy/consenttrainerresource/trainerfiles/NationalConsentPolicyM2014.pdf](http://www.hse.ie/eng/about/Who/qualityandpatientsafety/National_Consent_Policy/consenttrainerresource/trainerfiles/NationalConsentPolicyM2014.pdf)> para 7.7.1. [Accessed 21 September 2015]).

For example, in 2014, fear of violating foetal right to life under article 40.3.3 lead doctors to impose a regime of measures to support foetal life on the body of a woman after brain stem death was declared when she was 15 weeks pregnant. The measures were maintained against the wishes of her family, and were only discontinued after a ruling of the High Court. Mary Carolan. 2014. The Irish Times. Continuing to treat woman on life support ‘grotesque’.

Available from: <<http://www.irishtimes.com/news/crime-and-law/courts/high-court/continuing-to-treat-woman-on-lifesupport-grotesque-1.2047808>> [Accessed 01 September 2015]. Deirdre Duffy. (2014) Aside from the abortion question, Ms Y highlights serious flaws in Irish maternity care. The Journal.ie. Published 23 September 2014. Available at: <<http://www.thejournal.ie/readme/ms-ysuicidal-abortion-maternity-care-1685650-Sep2014/>>. [Accessed 01 September 15].

<sup>171</sup> In 2012 Savita Halappanavar died after being refused a termination, despite inevitable miscarriage, because a foetal heartbeat could be detected. (Health Service Executive. Final Report: Investigation of Incident 50278 from time of patient's self-referral to hospital on the 21st of October 2012 to the patient's death on the 28th of October, 2012. Available from <<http://www.hse.ie/eng/services/news/nimreport50278.pdf>>. Published June 2013. [Accessed 13 April, 2015]. The case highlighted the clinical and ethical impossibility of distinguishing in practice between risk to a woman's health, where abortion is unlawful, and risk to life, where the law permits abortion. In 2014, a young woman who was pregnant as a result of rape, and who was living within Ireland's direct provision system for asylum seekers, was unable to gather the necessary travel documents and financial means to travel to a state where abortion is legal. At around 24 weeks gestation, she was assessed under section 9 of the Protection of Life During Pregnancy Act, as being at risk of suicide. However, because the foetus was deemed viable, rather than authorize an abortion, a plan was put in place to deliver a live neonate by caesarean. (Fletcher R. Contesting the cruel treatment of abortion-seeking women. *ReprodHealth Matters* 2014;22 (44):10–21.) Two cases have been filed before the UN Human Rights Committee in relation to women who were forced to travel to the United Kingdom to obtain safe and legal abortion services after receiving a fatal foetal anomaly diagnosis.

<sup>172</sup> UN Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Ireland, Adopted by the Committee at its fifty-fifth session (1–19 June 2015) page 9. Available at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/150/67/PDF/G1515067.pdf?OpenElement>> [Accessed 21 September 2015].; Human

Rights Committee, 111<sup>th</sup> Session. Concluding observations on the fourth periodic report of Ireland, UN Doc CCPR/C/IRL/CO/4, 19 August 2014; United Nations Committee against Torture, 46th session, 9 May - 3 June 2011 Concluding Observations: Ireland, UN Doc CAT/C/IRL/CO/1, 17 June 2011; UN Committee on the Elimination of Discrimination against Women, 33<sup>rd</sup> session, Concluding Comments: Ireland, UN Doc CEDAW/C/IRL/CO/4-5, 13 July 2005

<sup>173</sup> The legislation was enacted with the purpose of implementing the ECtHR judgment in *A, B and C v Ireland* and allow for abortion where there is a risk to a pregnant woman's life.

<sup>174</sup> Irish Human Rights Commission. Observations on the Protection of Life During Pregnancy Bill 2013.

Available at:

<[http://www.ihrec.ie/download/pdf/ihrc\\_observations\\_protection\\_of\\_life\\_in\\_pregnancy\\_bill\\_2013.pdf](http://www.ihrec.ie/download/pdf/ihrc_observations_protection_of_life_in_pregnancy_bill_2013.pdf)>

[Accessed 21 September 2015].

<sup>175</sup> One doctor can make the decision in emergency cases. A pregnant woman who asserts her right to abortion because of physical risk to life under section 7 must be examined by two medical practitioners (an obstetrician and a specialist in a relevant area). However, in response to the contentious discussions of the grounds based on suicide during the parliamentary hearings on the legislation [6,8], the drafters of the Act made the requirements for certification more onerous in cases of suicide risk than when there is physical risk to life. Section 9 provides that three specialists—two psychiatrists and an obstetrician—must jointly certify a woman’s legal entitlement to the “medical procedure”. (Taylor M, Women’s right to health and Ireland’s abortion laws, *Int J Gynecol Obstet* (2015). Available from: <<http://dx.doi.org/10.1016/j.ijgo.2015.04.020>>. [Accessed 21 September 2015].

<sup>176</sup> Sections 58 and 59 of the Offences Against the Persons Act, 1861 available at <<http://www.irishstatutebook.ie/1861/en/act/pub/0100/print.html>> [Accessed 19 August 2015]. See also, The Irish Family Planning Association’s (2015) submission in relation to the review by the Committee on Economic, Social and Cultural Rights of Ireland’s compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR), at pages 2,3,4 and 5. Available from: <[http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IRL/INT\\_CESCR\\_CSS\\_IRL\\_20247\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IRL/INT_CESCR_CSS_IRL_20247_E.pdf)>. [Accessed 19 August 2015].

<sup>177</sup> Sections 22 and 23 of the Protection of life During Pregnancy Act, 2013 are available at <<http://www.irishstatutebook.ie/2013/en/act/pub/0035/sec0022.html#sec22>> and <<http://www.irishstatutebook.ie/2013/en/act/pub/0035/sec0023.html#sec23>> [Accessed 19 August 2015].

<sup>178</sup> **106.6.** Consider the ratification (Chile, Ecuador), ratify the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography (OP-SCR) (Portugal, Slovenia, Turkey), as soon as possible (France); **106.9.** Implement its commitment to holding a constitutional referendum on children’s rights with a view to incorporating those rights into the Irish Constitution (Australia); **106.10.** Ensure a comprehensive and effective incorporation of children’s rights into its legal framework in line with the Convention on the Rights of the Child (CRC), by incorporating children’s rights into the Constitution (Portugal); **106.11.** Give further effect to international human rights instruments in the domestic legislation, including from the provisions contained in the CRC (Indonesia); **107.9.** Ensure the comprehensive and effective incorporation of children’s rights into Ireland’s legal framework in line with the United Nations Convention on the Rights of the Child by incorporating children’s rights into the Constitution (Cambodia); **107.10.** Urgently take measures necessary to ensure that the United Nations Convention on the Rights of the Child is fully implemented and incorporated into the legal and administrative system of Ireland (Sweden); **107.11.** Consider alternative (legislative) measures that will enhance the position of children in the short term (i.e. extending the remit of the Ombudsman to children in prisons and asylum-seeking children) (Netherlands); **107.12.** Strengthen the legal framework for the protection of the rights of children and the rights of other vulnerable groups such as women, the elderly, people with disabilities and the community of Travellers (Peru); **107.27.** Accelerate efforts in establishing a national network of schools that guarantee equality of access to children irrespective of their religious, cultural or social background (Malaysia); **107.40** Institute a comprehensive statutory inquiry and compensation scheme in order to guarantee accountability and assist the (women and children) victims (of violence) (Thailand); **107.41** Explicitly prohibit any form of corporal punishment in the family and continue developing awareness-raising campaigns and education for parents and for the public in general (Uruguay); **107.42.** Promote forms of discrimination and non-violent discipline as an alternative to corporal punishment, taking into consideration general comment No. 8 (2006) of the Committee on the Rights of the Child on the protection of children from corporal punishment and other cruel or degrading forms of punishment (Uruguay).

<sup>179</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015]. pp. 8, 9, 29, 30, 33, 36, 37.

<sup>180</sup> Department of Children and Youth Affairs, The Referendum Relating to Children, <[http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/Child\\_Welfare\\_Protection/ChildrensReferendum.htm](http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/Child_Welfare_Protection/ChildrensReferendum.htm)> [accessed 31 March 2015].

<sup>181</sup> Delays were encountered due to a legal challenge. The legal challenge related to whether or not Government-funded referendum material, which had been found to be unconstitutional, impacted on the referendum outcome. The petitioner, Jordan, claimed that the Government booklet, website and advertising had a material effect on the referendum outcome and interfered with the democratic process. *Jordan v Minister for Children and Youth Affairs & Others* [2013] IEHC 625. On 24 April 2015, the Supreme Court upheld the judgment of the High Court and dismissed the appeal. *Jordan v Minister for Children and Youth Affairs & Others* [2013] IEHC 625.

<sup>182</sup> Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

<sup>183</sup> Working group report, para. 23.

<sup>184</sup> Childminders caring for the children of relatives, children of the same family fewer than three children of different families are exempt from the Child Care (Pre-school services) Regulations 1996 and (Amendment)



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Regulations 1997 under Section 58 of the Child Care Act 1991 and so are not covered by the prohibition of corporal punishment in those Regulations. Ireland has been found to be in breach of Article 17 of the European Social Charter (2015) and the European Committee on Social Rights has also found against Ireland (European Committee of Social Rights, *World Organisation against Torture (OMCT) v. Ireland*, Complaint no. 18/2003.).<sup>185</sup> European Commission (2015) *Country Report Ireland 2015, Commission Staff Working Document* [online], <[http://ec.europa.eu/europe2020/pdf/csr2015/cr2015\\_ireland\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2015/cr2015_ireland_en.pdf)> pp.59-61 [Accessed 19 May 2015]. The cost of childcare acts as a barrier to employment and training for some parents, preventing them from exiting poverty. Start Strong (2014) *The Double Dividend*, Dublin: Start Strong. Ireland invests considerably less than the Organisation of Economic Co-Operation and Development (OECD) average of 0.8 per cent of GDP (Gross Domestic Product in early childhood care and education at just 0.2 per cent. Childcare costs for parents in Ireland are amongst the highest in the OECD. Start Strong (2014) *The Double Dividend* [online], [http://www.startstrong.ie/files/Double\\_Dividend\\_Policy\\_Brief\\_Web2.pdf](http://www.startstrong.ie/files/Double_Dividend_Policy_Brief_Web2.pdf) [accessed 19 May 2015]. Full OECD data is available at: <[http://www.oecd.org/els/soc/Childcare\\_2012\\_EN\\_20141212.xlsx](http://www.oecd.org/els/soc/Childcare_2012_EN_20141212.xlsx)> [Accessed 21 September 2015]. Depending on the age-group of the children in the household, full-time childcare can account for over 40 per cent of household income. Vincentian Partnership for Social Justice (2015) *Minimum Income Standard and the Cost of Childcare* [online], <[http://www.budgeting.ie/images/stories/Publications/Papers/VPSJ\\_2015\\_MIS\\_Cost\\_of\\_Childcare.pdf](http://www.budgeting.ie/images/stories/Publications/Papers/VPSJ_2015_MIS_Cost_of_Childcare.pdf)>, p.29 [Accessed 19 May 2015]. The Organisation of Economic Co-operation and Development (OECD) found Ireland's investment in early care and education to be well below the OECD average of 0.8 per cent, coming in at 0.5 per cent of GDP in 2014. To reflect the early school starting age in Ireland, the OECD figure for Ireland includes spending on four and five year old children in primary schools. When primary school spending is excluded, the percentage of GDP spent on pre-school education in Ireland amounts to less than 0.2 per cent. OECD (2014) OECD Family Database, OECD, Paris, PF3.1.A. Public expenditure on childcare and early education services, per cent of GDP, 2011, <[www.oecd.org/social/family/database.htm](http://www.oecd.org/social/family/database.htm)> [Accessed 26 January 2015]. *Key Data on Early Childhood Education and Care in Europe. 2014 Edition*. Eurydice and Eurostat Report. Luxembourg: Publications Office of the European Union p. 80; Department of Children and Youth Affairs (2013) *Right from the Start, Report of the Expert Advisory Group on the Early Years Strategy*, Dublin: Department of Children and Youth Affairs, p. 7.

<sup>186</sup> Centre-based childcare services include crèches, nurseries, pre-schools, playgroups, Montessori pre-schools and after-school services.

<sup>187</sup> Start Strong (2014) *Childcare – Business or Profession?* Dublin: Start Strong, p. 81. Levels of quality in early years care and education are difficult to assess given the lack of official data on services. International rating scales exist that provide comparative standards and tested methodologies but no data from such scales are available for Ireland. E.g. the Early Childhood Environmental Rating Scales and Infant/Toddler Environmental Rating Scale. See <<http://ers.fpg.unc.edu/>> for further information. Due to the exclusion of childminders from regulation, there is no data on the quality of those services at all. It is estimated that nearly 50,000 young children are cared for by some 19,000 child-minders; Childminders and afterschool services continue to be excluded from quality structures as well as regulations and Garda (police) vetting. Start Strong (2012) *Policy Brief – Child-minding: Regulation and recognition*, Dublin: Start Strong; Start Strong (2014) *Childcare – Business or Profession?* Dublin: Start Strong, p. 81. Qualifications levels among staff are low by international standards. Pobal (2013) *Annual Early Years Sector Survey 2013* [online], <<https://www.pobal.ie/Publications/Documents/Pobal%20Annual%20Early%20Years%20Sector%20Survey%202013%20Report.pdf>> at p. 50 [Accessed 13 May 2015]. While a national strategy on early years is expected, it has not yet been published. The development of the National Early Years Strategy was first announced in 2012 and an Expert Advisory Group published its recommendations in October 2013. The Strategy should contain a clear and ambitious vision for early years policy and comprehensive measures to improve the quality of early years services.

<sup>188</sup> The majority of services are run by private providers to which the State gives capital grants for specific schemes such as the Free Pre-School Year Scheme. While subsidised schemes also exist such as the Community Childcare Subvention Scheme, the scheme is ad hoc and only available in limited parts of the country. The Free Pre School Year is administered by the Department of Children and Youth Affairs and is available to all children between the ages of three years and two months and four years and seven months in September of the relevant year, entitling them to programme-based activities in the year preceding primary school. It is delivered over 38 weeks from September to June and was attended by 67,000 pre-school children (94 per cent of eligible children) in 2013/14 within 4,200 services. The scheme cost €173.8 million in 2014 – representing 18 per cent of the Department of Children and Youth Affairs overall budget for that year. Communications to the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015. Access rates to the schemes are lower amongst marginalised groups. This includes groups such as Travellers and Roma children

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and children with disabilities. Department of Children and Youth Affairs (2013) *Right from the Start: Report of the Expert Advisory Group on the Early Years Strategy*, Dublin: Government Publications, p. 15.

<sup>189</sup> Subsidised Schemes exist but only a minority of childcare and after-school places are subsidised, with the largest subsidy scheme (the Community Childcare Subvention) only available through some community based (not-for-profit) childcare services.<sup>192</sup> The Community Childcare Subvention Programme provides subsidised places but the scheme is *ad hoc* as only certain settings offer these places and places can only be accessed from September of a given year.

<sup>190</sup> In January 2015, of the 27,710 child protection cases ‘open’ to social work teams across the country, there was a backlog of 7,787 (28%) cases that had not been allocated to a social worker. This backlog included 2,235 cases deemed ‘high priority’. Tusla, *Monthly Management Data Activity Report January 2015*. The Health Information and Quality Authority commented in a 2015 inspection report that children deemed to have a high level of need were placed at risk by the failure to allocate a social worker to them, or to give them timely access to child protection and welfare interventions. (Health Information and Equality Authority (2012) *Health Information and Quality Authority Regulation Directorate Monitoring Inspection report – Child Protection and Welfare Services under the National Standards for the Protection and Welfare of Children under Section 8(1) (c) of the Health Act 2007* [online], <<https://static.rasset.ie/documents/news/hiqa-report-cork.pdf>> [Accessed 1 April 2015].

<sup>191</sup> The Bill provides for aspects of the 2011 *Children First: National Guidance for the Protection and Welfare of Children* to be placed on a statutory footing.

<sup>192</sup> The only mechanism is the establishment of a non-compliance register to ‘name and shame’ organisations who do not have a child safeguarding statement. Children’s Rights Alliance, ‘Saving Childhood Group welcomes the publication of the Children’s First Bill 2014 and highlights areas of concern’ [press release], 14 April 2014. <<http://www.childrensrights.ie/resources/saving-childhood-group-welcomes>> [Accessed 9 February 2015].

<sup>193</sup> There are delays of up to six months. Garda Inspectorate (2014) *Crime Investigation Report*, Dublin: Garda Inspectorate, p. 50.

<sup>194</sup> The courts also have been found to be ill-equipped to deal with this special category of victim, both in terms of facilities and in that many lawyers and judges are simply not trained to handle child victims sensitively. Long delays in bringing cases forward can also affect a child’s ability to recall events. Ú. Ni Raifeartaigh (2009) Child sexual abuse cases: the need for cultural change within the criminal justice system, *The Bar Review* (2009) 14 (5) BR 103.

<sup>195</sup> For example, in 2015, a media report highlighted the case of a child who had waited for two years to access counselling RTÉ Morning Ireland (March 2015); and K. O’Brien, “Abused Boys Wait Two Years for Counselling”, *The Irish Examiner*, 21 March 2015.) The only counselling service for child victims of sexual abuse in Dublin, the CARI centre, had a waiting list of 30 families in January 2015. For victims of sexual assault under 14 years, there is limited access to specialist services, with just one State service, located in Galway. Victims over 14 years can access specialist integrated Sexual Assault Treatment Units (SATU), however these are unavailable in most parts of Ireland. Draft legislation to transpose the EU Directive on Victims was published in July 2015. The Directive must be transposed into law by 16 November 2015. It stipulates that all child victims shall be presumed to have specific protection needs. It provides for access to support services, free of charge, according to particular needs before, during and for a period after criminal proceedings.

<sup>196</sup> **106.30.** Strengthen the measures to improve the representation, education and protection of Travellers (Chile); **(accepted)**; **106.31.** Continue its work for the full realization of human rights of the Traveller community in the country (Sweden); **(accepted)**; **106.32.** Continue pursuing appropriate policies designed to provide for equal opportunities to members of the Traveller community, with special focus on access to health care, education and housing, including ensuring Travellers’ participation in public life related decision-making process (Slovakia); **(accepted)**; **106.33.** Improve social and economic conditions of the members of the Traveller community (Pakistan); **(accepted)**; **107.12.** Strengthen the legal framework for the protection of the rights of children and the rights of other vulnerable groups such as women, the elderly, people with disabilities and the community of Travellers (Peru); **(accepted)**; **107.31.** Introduce a complete integration policy for this specific group (referring to Travellers who continue to suffer from discrimination) (Czech Republic); **(accepted)**; **107.32.** Introduce measures to improve the conditions of Travellers in the society and introduce a comprehensive system for the monitoring of racist incidents (Turkey); **(accepted)**; **107.33** Recognise Travellers as an official minority (Slovakia); **(rejected)**;

<sup>197</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from: <[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015]. Pp. 30 -36, 40, 42 – 43

<sup>198</sup> Human Rights Committee (HRCtee), Concluding observations on the fourth periodic report of Ireland, 2014, CCPR/C/IRL/CO/4; 2008, Concluding observations on the third periodic report of Ireland 2014

CCPR/C/IRL/CO/3; Committee on Economic Social and Cultural Rights (CESCR) Concluding Observations of the Committee on Economic, Social and Cultural Rights on Ireland 2015, E/C.12/IRL/CO/3 Committee for the Elimination of Racial Discrimination (CERD) , Concluding Observations on Ireland, CERD/C/IRL/CO/3-4;

<sup>199</sup> In its 2014 Report on the Recognition of Traveller Ethnicity, the Joint Oireachtas Committee Justice, Defence and Equality recommended that the Taoiseach or Minister for Justice and Equality affirm the State's recognition of Traveller ethnicity by making a statement to the Oireachtas.

Ref Joint Oireachtas Committee on Justice, Defence and Equality, Report on the Recognition of Traveller Ethnicity 2014. In November 2014, Minister of State for Equality, New Communities and Culture, Mr Aodhán Ó Ríordáin TD, made a commitment that recognition would become a 'reality'. See

<<http://www.irishtimes.com/news/social-affairs/traveller-ethnicity-will-be-reality-in-six-months-says-%C3%B3-riord%C3%A1in-1.2005945>> [Accessed 18 September 2015].

<sup>200</sup> Kelleher et al (2010) Our Geels, All Ireland Traveller Health Study, University College Dublin & Department of Health & Children; Pavee Point (2014) Challenging Barriers and Misconceptions: Roma Maternal Health in Ireland <<http://www.paveepoint.ie/wp-content/uploads/2013/11/Roma-Maternal-Health-in-Ireland.pdf>> [Accessed 21 September 2015]; Health Service Executive and Pavee Point (2012) Roma Communities in Ireland: Child Protection Considerations

<<http://www.paveepoint.ie/wp-content/uploads/2013/11/Roma-Communities-in-Ireland-and-Child-ProtectionConsiderations-Final-Report.pdf>> [Accessed 21 September 2015]; Pavee Point (2014) Roma and Education in Ireland

<<http://www.paveepoint.ie/wp-content/uploads/2013/11/Roma-and-Education.pdf>> [Accessed 21 September 2015].

<sup>201</sup> It has been reported that consultation with or facilitation of active participation of Travellers and Roma did not take place during in the development of this document. Submission by Pavee Point

<sup>202</sup> The 2013 assessment of Ireland's National Traveller Roma Integration Strategy, by the European Commission was very critical. Ireland was judged to have met 4 out of 22 criteria. See

<[http://ec.europa.eu/justice/discrimination/roma-integration/ireland/national-strategy/national\\_en.htm](http://ec.europa.eu/justice/discrimination/roma-integration/ireland/national-strategy/national_en.htm)> [Accessed 21 September 2015].

<sup>203</sup> Pavee Point Traveller and Roma Centre (2015) Submission to the EU Commission on Ireland's National Traveller Roma Inclusion Strategy.

<sup>204</sup> This is in reportedly contrast to previous drafts of the strategy. Submission by Pavee Point Traveller Centre

<sup>205</sup> For example, running water, electricity, gas, refuse collection, etc. It should also be noted that the introduction of the Housing (Miscellaneous Provisions) Act 2002 criminalises trespass on public or private land, a measure noted by the Human Rights Committee which disproportionately affects Traveller families, particularly those engaged, wholly or in part, in a traditional nomadic lifestyle.

<sup>206</sup> **106.62.** Continue to allocate financial assistance for developing countries in the framework of Official Development Assistance (ODA) and meet the commitment made in this regard at the international level (Algeria) (**accepted**);

<sup>207</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014), p. 27. Available from: <[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>208</sup> The aid budget has been cut six consecutive times. Ireland has committed to reaching the UN target of spending 0.7% of national income by 2015. Programme Government 2011-2016. Available at: <[http://www.taoiseach.gov.ie/eng/Work\\_of\\_the\\_Department/Programme\\_for\\_Government/](http://www.taoiseach.gov.ie/eng/Work_of_the_Department/Programme_for_Government/)> [Accessed 18 September 2015].

<sup>209</sup> See Christian Aid (2008) 'Death and Taxes'. Available at:

<<http://www.christianaid.org.uk/images/deathandtaxes.pdf>> [Accessed 18 September 2015].

See also Action Aid (2013) 'Sweet Nothings: The human cost of British sugar giant avoiding taxes in southern Africa'. Available at: <[http://www.actionaid.org.uk/sites/default/files/doc\\_lib/sweet\\_nothings.pdf](http://www.actionaid.org.uk/sites/default/files/doc_lib/sweet_nothings.pdf)> [Accessed 18 September 2015]. "Track it! Stop it! Get it! Report of the Hugh Level Panel on Illicit Financial Flow from Africa". Available at: <[http://www.uneca.org/sites/default/files/PublicationFiles/iff\\_main\\_report\\_26feb\\_en.pdf](http://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf)> [Accessed 18 September 2015].

See also Philip Alston, UN Special Rapporteur on extreme poverty and human rights, John Norton Pomeroy Professor of Law, New York University Law School, "Tax Policy is Human Rights Policy: The Irish Debate" Keynote Address at Christian Aid Conference on The Human Rights Impact of Tax and Fiscal Policy, Dublin, 12 February 2015. Available at: <<http://www.christianaid.ie/images/tax-policy-is-human-rights-policy-alston-philip.pdf>> [Accessed 18 September 2015].

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<sup>210</sup> The spill-over analysis launched by the Government in 2014 was welcome, but this analysis needs to be part of a systematic and regular analysis of the potential impact of our tax policy on developing countries. Available at: <<http://www.finance.gov.ie/publications/consultations/previous-consultations/department-finance-launches-spillover-analysis>> [Accessed 18 September 2015].

<sup>211</sup> 106.17.(**accepted**) Enact laws that protect adequately the rights and the well-being of separated and unaccompanied minors seeking asylum, in conformity with standards established under international laws (Uruguay); 106.22.(**accepted**) Continue its efforts to ensure that migrants and women belonging to minorities continue to be the focus of government programmes specifically geared towards the protection of their rights (Argentina); 106.34.(**accepted**) Continue action to protect the conditions of migrant workers by improving existing legislation (Sri Lanka); 106.54.(**accepted**) Pass legislation to combat trafficking in human beings in the form of sham marriages (Latvia); 106.58.(**accepted**) Ensure the national availability and accessibility to contraceptive services and methods, including through the dissemination of information and education to boys, girls and adolescents, taking into account prevention of discrimination based on geographic status, disability or migrant status (Mexico); 106.60.(**accepted**) Establish a consolidated framework relating to immigration and asylum issues, including an independent Appeals body (United Kingdom); 106.61.(**accepted**) Ensure that all asylum-seekers in Ireland can effectively accede to the process of determination of their refugee condition and that decisions on the necessity for international protection can be reviewed and are subject to independent judicial supervision (Mexico); 107.7.(**partially accepted**) Adopt practical and legal measures to curb racial discrimination and discrimination against migrants and look at the appeal by UNESCO to ratify the Convention against Discrimination in Education (Uzbekistan); 107.11.(**partially accepted**) Consider alternative (legislative) measures that will enhance the position of children in the short term (i.e. extending the remit of the Ombudsman to children in prisons and asylum-seeking children) (Netherlands); 107.20.(**rejected**) Adopt immediate measures to assign an ad litem tutor or adviser to unaccompanied minors independently of whether an application for protection has been submitted (Uruguay); 107.21.(**accepted**) Enact laws setting principles on law, rights and obligations that govern family reunification (Uruguay); 107.24.(**partially accepted**) In line with the recommendations made by CERD, adopt and implement immediately legislation prohibiting any form of racial discrimination and ensure humanitarian treatment for migrants and persons of non-Irish origin, including through adequate training for judicial and police personnel (Mexico); 107.35. (**accepted**) Take the necessary measures to avoid detention of asylum-seekers and to avoid situations which may equate the condition of immigrants to that of felons (Brazil); 107.43.(**partially accepted**) Amend the Civil Registration Act empowering the registers and the Garda (police) to intervene against sham marriages and to amend the criminal law to criminalize the organizers and facilitators of sham marriages (Latvia); 108.1.(**rejected**) Consider becoming a party to (Turkey); the possibility of (Argentina, Ecuador, Peru) signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Algeria, Egypt), incorporate it into law (Iran), and accede to its principles (Mexico); 108.10.(**rejected**) Legislate against racial profiling and strengthen its efforts to promote the humane treatment of migrants and people of non-Irish origin by law enforcement officers (Iran); 108.12.(**rejected**) Adopt legislation that prohibits any form of racial profiling and furthermore strengthen its efforts to promote the humane treatment of migrants and people of non-Irish origin by the Garda Síochána and other law enforcement personnel in accordance with international human rights law (Azerbaijan); 108.13.(**rejected**) Strengthen its laws to prohibit racial profiling and strengthen its efforts to promote humane, dignified and non-selective treatment for migrants; 108.14.(**rejected**) Ensure the protection of the rights of domestic migrant workers, the majority of whom are women whose rights are not protected under the 2004 Law on parity (Uzbekistan); and other persons who are not of Irish origin (Honduras); 108.15.(**rejected**) Introduce a law allowing for family reunions as well as a law granting refugees the right to work (Czech Republic).

<sup>212</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations, 106.17 (page 12); 106.22 (at page 14); 106.34 (at page 17); 106.58 (page 25); 106.60 (page 26), 106.61 (page 27), 107.7 (page 28); 107.11 (page 29); 107.21(page 31); 107.24 (page 32); 107.35 (page 35); 107.43 (page 37) . Available from: <[http://www.rightsnow.ie/go/upr\\_2011/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>213</sup> Available from:

<[http://justice.ie/en/JELR/General%20Scheme%20of%20the%20International%20Protection%20Bill%20\\_final\\_.pdf/Files/General%20Scheme%20of%20the%20International%20Protection%20Bill%20\\_final\\_.pdf](http://justice.ie/en/JELR/General%20Scheme%20of%20the%20International%20Protection%20Bill%20_final_.pdf/Files/General%20Scheme%20of%20the%20International%20Protection%20Bill%20_final_.pdf)>

[Accessed 20 August 2015]. A scheme of the Bill has been proposed and the Bill itself may be proposed in the autumn session of the Parliament. During its review of Ireland's Third Periodic Report under the International Covenant on Economic, Social and Cultural Rights, the UN Committee on Economic, Social and Cultural Rights recommended that the State "Expedite the adoption of the International Protection Bill with a view to introducing a single procedure to assess and determine without undue delay all forms of protection status for asylum seekers



as well as to strengthen the protection and promotion of their economic, social and cultural rights”, UN Committee on Economic Social and Cultural Rights, concluding observations on the Third Periodic Report of Ireland, E/C.12/IRL/CO/3, para 14 (a). Available from:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en) [Accessed 18 September 2015].

<sup>214</sup> It will abolish the Office of the Refugee Applications Commissioner (ORAC) and examination of international protection claims will be subsumed within the Department of Justice and Equality.

<sup>215</sup> The draft General Scheme contains provisions that seek to restrict the existing family reunification entitlements of refugees in Ireland. It is also proposed that a family member who is admitted under family reunification provisions will not be granted a residence permit for the same duration as a protection status holder and the permission will cease to be valid where the person ‘ceases to be a qualified person or family member’. As drafted, no guidance is provided as to the circumstances where a person may ‘cease to be a qualified person or family member’. For example, it is not clear whether a family member could have their permission to reside revoked in circumstances where the protection status holder subsequently granted Irish citizenship by naturalisation or in the event of relationship breakdown.

<sup>216</sup> Currently no formal stateless determination procedure exists in Ireland for stateless persons, some of whom may be in need of international protection. This is a significant lacuna given that Ireland is a party to the 1954 UN Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

<sup>217</sup> In respect of the rights of the child, the ‘best interests’ principle is identified in various provisions throughout the draft General Scheme as a relevant consideration. However, the draft legislation should be amended to include express provision for the recognition of the best interests of the child as the primary consideration whenever there is a determination made in respect of a child directly or where a child may be affected by the decision, including deportation decisions.

<sup>218</sup> Irish Refugee Council, Media Statement, 30 March 2015, “*The Heads of the International Protection Bill 2015 raise fundamental issues about Ireland’s commitment to providing protection, says the Irish Refugee Council*”. Available from: <http://www.irishrefugeecouncil.ie/news/the-heads-of-the-international-protection-bill-2015-raise-fundamentalissues-about-irelands-commitment-to-providing-protection-says-the-irish-refugee-council/3896> [Accessed 18 September 2015].

<sup>219</sup> In its concluding observations on Ireland’s Fourth Periodic Report, the UN Human Rights Committee also expressed its concern at the lack of single application procedure for the consideration of all grounds for international protection and the lack of an independent complaints mechanism in direct provision centres. UN Human Rights Committee, concluding observations on the fourth periodic report of Ireland, CCPR/C/IRL/CO/4, para. 19. Available from:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f4&Lang=en) [Accessed 17 September 2015].

In 2015, the Ombudsman for Children called on the Government to extend his remit to include oversight of the Direct Provision system for asylum seekers, see O’Brien, C. (2015) ‘Ombudsman calls for remit to be extended to direct provision’ *The Irish Times*, 10 June. Available from:

<http://www.irishtimes.com/news/politics/ombudsman-callsfor-remit-to-be-extended-to-direct-provision-1.2244311> [Accessed 18 September 2015].

<sup>220</sup> The Working Group on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers was established by the Minister for Justice and Equality and the Minister of State with special responsibility for New Communities, Culture and Equality in October 2014 pursuant to a commitment in the Statement of Government Priorities 2014-2016. Available at:

[http://www.taoiseach.gov.ie/eng/Publications/Publications\\_2014/Statement-of-Government-Priorities-2014-2016.pdf](http://www.taoiseach.gov.ie/eng/Publications/Publications_2014/Statement-of-Government-Priorities-2014-2016.pdf) [Accessed 18 September 2015]. The terms of reference for the working group directed it towards recommending improvements to the existing system rather than identifying alternatives to the system. Available from: [http://www.justice.ie/en/JELR/Pages/Terms\\_of\\_Reference](http://www.justice.ie/en/JELR/Pages/Terms_of_Reference) [Accessed 18 September 2015].

<sup>221</sup> Working Group Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, Final Report, June 2015. The report lists over 170 recommendations. Available from:

<http://www.justice.ie/en/JELR/Report%20to%20Government%20on%20Improvements%20to%20the%20Protection%20Process,%20including%20Direct%20Provision%20and%20Supports%20to%20Asylum%20Seekers.pdf/Files/Report%20to%20Government%20on%20Improvements%20to%20the%20Protection%20Process,%20including%20Direct%20Provision%20and%20Supports%20to%20Asylum%20Seekers.pdf> [Accessed 18 September 2015].

<sup>222</sup> UN Committee on Economic Social and Cultural Rights, concluding observations on the third periodic report of Ireland, E/C.12/IRL/CO/3, para 14. “These centres have a negative impact on the family life, their mental

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health and their children's best interest". Available at:

<file:///S:/Research,%20Policy%20&%20Campaigns/Justice/Bail%20Bill/G1515067.pdf> [Accessed 20 August 2015].

<sup>223</sup> Available from: <<http://www.inis.gov.ie/en/INIS/IRP%20Bill%202010.pdf/Files/IRP%20Bill%202010.pdf>> [Accessed 20 August 15]. The Irish immigration system remains based on Ministerial discretion and there is no system of independent appeals for immigration or naturalisation (citizenship) applications. INIS published a policy document on non-EEA family reunification (excluding refugees) in 2013. Available from:

<<http://www.inis.gov.ie/en/INIS/Family%20Reunification%20Policy%20Document.pdf/Files/Family%20Reunification%20Policy%20Document.pdf>> [Accessed 18 September 2015], which may benefit some migrants, especially migrants experiencing domestic violence. However, according to MIPEX 2015 Ireland has some of the most discretionary family reunion, residence and citizenship policies in the developed world. Available from <<http://www.mipex.eu/ireland>> [Accessed 18 September 2015].

<sup>224</sup> Available from: <<http://www.inis.gov.ie/en/INIS/SI656of2006.pdf/Files/SI656of2006.pdf>> [accessed 20 August 2015]. These Regulations transpose EU Citizenship Directive 2004/38/EC into Irish law.

<sup>225</sup> It is estimated that there are between 20,000 and 26,000 undocumented migrants in Ireland. Further information available from: <<http://www.mrci.ie/our-work/justice-for-undocumented/>> [Accessed 20 August 2015].

<sup>226</sup> O'Brien, C. (2015), 'Government considers proposal on undocumented migrants', Irish Times, 24<sup>th</sup> July. Available at: <<http://www.irishtimes.com/news/social-affairs/government-considers-proposal-on-undocumented-migrants-1.2278107>> [Accessed 18 September 2015].

<sup>227</sup> See:

<[http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_INSTRUMENT\\_ID:2551460](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:2551460)> [Accessed 18 September 2015].

<sup>228</sup> Migrant Rights Centre Ireland, Press Release, 6 October 2012 "Domestic Workers Call on Irish Government to Protect Domestic Workers Rights & End Abuse". Available at:

<<http://www.mrci.ie/press-centre/domestic-workers-call-on-irish-government-to-protect-domesticworkers-rights-and-end-abuse/>> [Accessed 18 September 2015].

<sup>229</sup> Ireland has not had a National Action Plan since 2012. National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland 2009-2012. Available at:

<<http://www.justice.ie/en/JELR/Final%20National%20Action%20Plan2.pdf/Files/Final%20National%20Action%20Plan2.pdf>> [Accessed 18 September 2015].

<sup>230</sup> As recommended by the monitoring bodies such as the Council of Europe and the Organization for Security and Co-operation in Europe.

<sup>231</sup> Currently, the Administrative Immigration Arrangements for the Protection of Victims of Trafficking apply only to isolated cases of undocumented third country national victims. The present system of identification precludes the vast majority of victims from the possibility to be formally identified and protected by operating a nationality and immigration status driven approach and interferes with the right of victims of trafficking to seek international protection. This approach to identification has been criticised by virtually all international monitors and Irish NGOs. The failings of the system are evidenced by a recent High Court case (*P. v the Chief Superintendent of the Garda National Immigration Bureau, the Director of Public Prosecutions, Ireland and the Attorney General*, [2013/795 JR]) concerning a Vietnamese woman who was trafficked for forced criminality. The State failed to identify her and incarcerated her for two years for a crime she committed under duress. Ms. Justice Iseult O'Malley found failures in the Garda investigation and in State policies and procedures for identifying victims of human trafficking.

<sup>232</sup> This also applies in police stations, the courts and hospitals.

<sup>233</sup> For recent Government statement see: <<http://www.justice.ie/en/JELR/Pages/PR15000457>> [Accessed 18 September 2015].

<sup>234</sup> The Irish Government also needs to work towards addressing the root causes of the crisis by honouring its international development aid commitments and increase investment in inclusive development, decent work and social protection in countries of origin so that migration becomes an option, not a necessity. Please see section on International Assistance and Cooperation for further updates.

<sup>235</sup> 106.23. **(accepted)** Take measures to tackle racial discrimination and to combat more resolutely all forms of racism, xenophobia and religious intolerance against foreigners and religious minorities, including Muslims (Iran); 106.24. **(accepted)** Fight Islamophobia and support its Muslim citizens, by enabling them to practise their religion (Iran); 106.25. **(accepted)** Ensure that any person involved in xenophobic and Islamophobic acts is investigated and prosecuted (Iran); 106.26. **(accepted)** Take more effective measures to combat racial discrimination and intolerance, including by promptly investigating and taking stern action against perpetrators of racism, xenophobic and discriminatory acts and by promoting intercultural understanding and tolerance between the different ethnic and faith groups in the country (Malaysia); 106.27. **(accepted)** Strengthen its efforts to protect the human rights of all Ireland's citizens, including those from sub-Saharan Africa (Indonesia);

106.28.(**accepted**) Ensure that any persons involved in racial discrimination acts are investigated and prosecuted, and, if found guilty of such incidents, punished with appropriate penalties (Azerbaijan); 107.8.(**accepted**) Continue the implementation of the recommendations made by the Committee on the Elimination of Racial Discrimination (CERD) (Iraq); 107.13.(**accepted**) Enhance legal action against all forms of discrimination on the basis of race, ethnic, language, religion or national origin, in particular comprehensive respect for human rights of foreigners regardless of their migratory status (Ecuador); 107.15.(**accepted**) Pursue efforts aimed at strengthening the protection of all people from racial discrimination and by improving the existing draft pieces of legislation and passing them into law (Ghana); 107.25.(**accepted**) Consider strengthening its National Action Plan against Racism (Brazil); 107.26.(**accepted**) Fully explore the possibility of putting in place a new National Plan of Action against Racism (Malaysia); 107.28. (**accepted**) Strengthen the protection of all people from racial discrimination by improving the existing draft pieces of legislation and passing them into law (Pakistan); 107.29.(**accepted**) Establish appropriate mechanisms to encourage the reporting of racist incidents and crimes (Azerbaijan); 107.30.(**accepted**) Investigate the reports of “knife stabbings” against people mainly from sub-Saharan Africa and ensure that the perpetrators are prosecuted and, when convicted, punished with appropriate penalties (Azerbaijan); 107.5.(**partially accepted**) Withdraw its reservations to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ICESCR and ICCPR (Iran); 107.7. (**partially accepted**) Adopt practical and legal measures to curb racial discrimination and discrimination against migrants and look at the appeal by UNESCO to ratify the Convention against Discrimination in Education (Uzbekistan); 107.19.(**partially accepted**) Develop provisions of a training programme to raise the awareness of the judiciary to the racial dimension of crime and to ensure that judges take into account racist motivation as an aggravating circumstance when they sentence in criminal cases (Uruguay); 107.24.(**partially accepted**) In line with the recommendations made by CERD, adopt and implement immediately legislation prohibiting any form of racial discrimination and ensure humanitarian treatment for migrants and persons of non-Irish origin, including through adequate training for judicial and police personnel (Mexico).

<sup>236</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. Available from:

<[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

See in particular p. 14 “the Minister for Justice and Equality is continuing to prioritise the issue of anti racism and anti xenophobia in the context of responding to an increasingly multi-ethnic and multi-cultural population in Ireland”.

<sup>237</sup> National Action Plan Against Racism (2005-2008). Available from:

<[http://www.integration.ie/website/omi/omiwebv6.nsf/page/PCHK-7PNHH41312727-en/\\$File/NPAR%20Final%20Report%20Not%20an%20End%20Just%20a%20Beginning.pdf](http://www.integration.ie/website/omi/omiwebv6.nsf/page/PCHK-7PNHH41312727-en/$File/NPAR%20Final%20Report%20Not%20an%20End%20Just%20a%20Beginning.pdf)> [Accessed 18 September 2015].

<sup>238</sup> Recommendations 106.23, 106.25, 106.26, 106.28, 107.13, 107.15, 107.28

<sup>239</sup> The Irish State has yet to criminalise the hate element of crime, citing as reasons for its inaction: 1. Generic criminal offences are sufficient to combat hate crime 2.The courts consider racist and xenophobic motivations at sentencing; 3. Introducing aggravated sentencing provisions would have broader ramifications for the criminal law, including a restructuring of penalties for basic offences; 4.The criminal law would in any event be insufficient to challenge hate crime which requires a broader educative measure to combat.” Haynes, A., Schweppe, J., Carr, J., Carmody, N. and Enright, S. (2015) *Out of the Shadows*, Dublin, p.8

<sup>240</sup> See for example: Haynes, A., Schweppe, J., Carr, J., Carmody, N. and Enright, S. (2015) *Out of the Shadows*, Dublin: ICCL. Schweppe, J., Haynes, A. and Carr, J. (2014) *A Life Free From Fear Legislating for Hate Crime in Ireland: An NGO Perspective*, Limerick: HHRG/CUES. Available from:

<<http://www.ul.ie/emotions/sites/default/files/docs/Life%20Free%20From%20Fear%20-%20Reprint%20Aug28%202014%20-%20web%20version.pdf>> [Accessed 18 September 2015]; Carr, J. (2014)

*Experiences of Anti-Muslim Racism in Ireland*, Limerick: HHRG. Available at:

<<http://www.ul.ie/emotions/sites/default/files/docs/Experiences%20of%20Anti-Muslim%20Racism%20in%20Ireland.pdf>> [Accessed 18 September 2015]; ENAR Ireland (2015) *Reports of Racism in Ireland* : 5th-6th quarterly reports of iReport.ie, July-December 2014. Available from: <[http://enarireland.org/wp-content/uploads/2014/05/iReport56\\_150dpi\\_8thApril-Pobal.pdf](http://enarireland.org/wp-content/uploads/2014/05/iReport56_150dpi_8thApril-Pobal.pdf)> [Accessed 18 September 2015].

<sup>241</sup> See for example: <<http://www.rte.ie/news/2015/0402/691766-autism/>>;

<<http://www.rte.ie/news/2015/0417/694704-dublin-assault/>>; <<http://www.irishexaminer.com/ireland/hate-crime-in-ireland-woman-forced-to-hide-in-friends-attic-343837.html>>;

<<http://www.irishexaminer.com/ireland/call-for-specific-hate-crime-law-amid-attacks-344029.html>>; [Accessed 18 September 2015].

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<sup>242</sup> Official data from the Central Statistics Office for 2013 show that there were 113 hate crimes recorded for 2013 and 53 for 2014. The European Network Against Racism Ireland recorded 137 racist or religiously aggravated crimes in 2014 (including 40 assaults); the Gay and Lesbian Equality Network recorded a further 19 homophobic/transphobic crimes for a seven month period from December 2014 to June 2015 (including 11 assaults); and the Transgender Equality Network Ireland recorded an additional 22 transphobic crimes in 2014 (including 6 assaults, 3 sexual assaults and 1 aggravated sexual assault).

<sup>243</sup> In 2014, the Garda (police) Inspectorate reported that during its inspection visits (which included engaging with approximately 1,000 police officers staff) no officer reported that they had either recorded or investigated a hate crime. See Garda Inspectorate (2014) *Report of the Garda Síochána Inspectorate – Crime Investigations 2014*. Available at:

<[http://www.gsinsp.ie/index.php?option=com\\_docman&task=doc\\_download&gid=243&Itemid=152](http://www.gsinsp.ie/index.php?option=com_docman&task=doc_download&gid=243&Itemid=152)> [Accessed 18 September 2015].

University of Limerick Hate and Hostility Research Group and Irish Council for Civil Liberties NGO Research Group on Hate Crime, *Out of the Shadows - Legislating for Hate Crime in Ireland*, 2015, Part 6, p. 45. Available at:

<<file:///C:/Documents%20and%20Settings/sociologylaptop/My%20Documents/Downloads/Media%20Advisory%20Hate%20Crime%20July%2013%202015.pdf>> [Accessed 18 September 2015]

<sup>244</sup> The research report *Out of the Shadows: Legislating for Hate Crime in Ireland* (authored by the Hate and Hostility Research Group, University of Limerick) found a: “a system-wide failure to recognise the harms of hate: this systematic blindness results in a ‘disappearing’ of the hate element of many crimes in the criminal justice process and a failure to provide victims with appropriate protection under the law. This occurs for a number of reasons: Although individual members of An Garda Síochána work to compensate for the legislative vacuum as regards hate crime, they are hampered in their efforts by a lack of dedicated tools, structures and supports; The term ‘hate crime’ is not part of the language of An Garda Síochána; Few members of An Garda Síochána have any training in hate crime, its recording, investigation or prosecution; Members of An Garda Síochána have little direction on the treatment of racist incidents, and no access to policy or directives relating to homophobic, transphobic or disablist hate crime among other manifestations; The hate element of a crime is not consistently acknowledged or recorded by An Garda Síochána (and in some cases, cannot be formally flagged); Consequently, and given that it is not core to many of the standard charges which are currently used to address victims’ experiences, the hate element of a crime is not consistently investigated by An Garda Síochána; While individual members of An Garda Síochána make great efforts to use existing offences to draw attention to the hate element of a crime, none of the Gardaí we interviewed regarded existing offences as adequate to that task; Where the hate element of a crime is investigated, it is not always raised in court; In some cases, prosecutors feel precluded from raising the hate element of a crime in court; The solicitors and barristers we spoke to, consequently, had limited experience in either prosecuting or defending a hate crime; Where the hate element is raised in court, it is not always addressed. Commissioned by the Irish Council for Civil Liberties, *Out of the Shadows* was informed by 77 in-depth interviews with victims of hate crime, representatives of Civil Society Organisations (CSOs), criminal justice practitioners, members of An Garda Síochána, probation offices and a number of other relevant experts; a postal survey of barristers and secondary analysis of hate crime reports to CSOs.

<sup>245</sup> In 2014 the Minister of State for Equality, New Communities and Culture commissioned a set of legislative proposals to tackle hate crime. The proposals were commissioned following a meeting of NGO Working Group on Hate Crime, established by the Minister in 2013, and produced by the University of Limerick Hate and Hostility Research Group in collaboration with Working Group. Further information available from: <<http://ul.ie/emotions/hhrg>> [Accessed 18 September 2015].

<sup>246</sup> 106.2. **(accepted)** Become a party (Estonia), consider accession (Brazil), ratification (Chile), ratify the Optional Protocol to the Convention against Torture (OPCAT) (France, Greece, Slovenia, United Kingdom) and set up a national prevention mechanism that meets the criteria and guarantees under this instrument (Switzerland); 106.3. **(accepted)** Continue the efforts for a speedy ratification of the Optional Protocol to the Convention against Torture (Peru); 106.36. **(accepted)** Take effective measures to improve prison conditions (Algeria); 106.37. **(accepted)** Give priority to bringing conditions and treatment of detainees in Irish prisons into line with international human rights standards, including through implementing outstanding recommendations from international human rights bodies (Norway); 106.38. **(accepted)** Improve conditions for detainees in Irish prisons to bring them in line with international standards (Australia); 106.39. **(accepted)** Continue its efforts to incorporate in-cell sanitation in all prison facilities (USA); 106.40. **(accepted)** Further improve the conditions of detainees in line with international human rights standards (Hungary); 106.41. **(accepted)** Take effective measures as soon as possible in order to avoid overcrowding in prisons and other detention facilities, in line with the Standard Minimum Rules for the Treatment of Prisoners (Austria); 106.42. **(accepted)** Give due attention to the results of the expert group examining the possibility of the construction of



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a new prison (Austria); 106.43. **(accepted)** Increase the use and promotion of alternative, non-custodial measures (Austria); 106.44. **(accepted)** Continue its effort to secure satisfactory sanitary facilities in Irish prisons, including in-cell sanitation, and to mitigate overcrowding (Denmark); 106.45. **(accepted)** Urgently and comprehensively bring conditions for the prison population into line with international human rights standards (Sweden); 106.46. **(accepted)** Carry out all efforts to reduce overcrowding in prisons and to ensure that imprisonment is a measure of last resort (Spain); 106.47. **(accepted)** Continue with the implementation of measures to improve adverse conditions in prisons, in particular the renovations required to improve the health situation in prisons and effective programmes for education and rehabilitation of prison inmates (Peru); 106.48. **(accepted)** Complete the review of prison conditions in order to increase the quality of the prison management system (Indonesia); 107.34. **(accepted)** Activate efforts to improve the living conditions of detainees pre-trial and after conviction and also to implement all the requirements of minimum standards of treatment of inmates (Uzbekistan).

<sup>247</sup> See Universal Periodic Review, Ireland, National Interim Report (March 2014) for status of implementation of recommendations. With particular attention paid to the ratification of OP – CAT, p7, improving prison/detention facilities, p. 18-22, and improving living condition in places of detention, p.34. Available from: <[http://www.rightsnow.ie/go/upr\\_2011/upr\\_1/upr\\_mid\\_term\\_report\\_2014/universal-periodic-review-ireland-national-interim-report-march-2014](http://www.rightsnow.ie/go/upr_2011/upr_1/upr_mid_term_report_2014/universal-periodic-review-ireland-national-interim-report-march-2014)> [Accessed 17 September 2015].

<sup>248</sup> Submission on behalf of the Irish Human Rights and Equality Commission (Designate) to Representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment p. 2 at footnote 1. Available from: <[http://www.ihrec.ie/download/pdf/ihrec\\_designate\\_report\\_to\\_cpt\\_7aug14.pdf](http://www.ihrec.ie/download/pdf/ihrec_designate_report_to_cpt_7aug14.pdf)> [Accessed on 13 August 2015].

<sup>249</sup> Joint Committee on Justice, March 2013), Defence and Equality, Report on Penal Reform, p. 23. Available from: <<http://www.oireachtas.ie/parliament/media/Penal-Reform-Report-13-March-2013-Final.pdf>> [Accessed 13 August 15].

<sup>250</sup> Joint Committee on Justice, March 2013), Defence and Equality, Report on Penal Reform, p. 23. Available from: <<http://www.oireachtas.ie/parliament/media/Penal-Reform-Report-13-March-2013-Final.pdf>> [Accessed 13 August 15] This plan is behind schedule, with 8% of prisoners still required to “slop out”.

<sup>251</sup> 8% of the prison population. Available at: <<http://www.iprt.ie/contents/2732>> [Accessed 18 September 2015].

<sup>252</sup> Minister for Justice, Frances Fitzgerald in a written answer no. 444 in the Dáil on 14th January 2015 stated “... final approval for the project has not yet been granted. Work is continuing on finalising the design for the redevelopment of Limerick prison.” In the same answer she stated that the contract for redevelopment of Limerick prison was awarded in September 2012. Available from: <<http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2015011400075>> [Accessed 13 August 15].

<sup>253</sup> Former Minister for Justice, Equality and Defence, Alan Shatter in a press release by the Department of Justice on announcing the building of a new prison in Cork, stated from the outset that double cell-occupancy was planned. Department of Justice and Equality, Press Release, 16 January 2014, “€35 Million Contract for construction of the new Cork Prison signed by the Minister for Justice, Equality and Defence”. Available from: <<http://www.justice.ie/en/JELR/Pages/PR14000007>> [Accessed 13 August 15]. This is at odds with the European Prison Rules, which state that single-occupancy should be the norm and double-occupancy should only be used in exceptional circumstances. Available from: <<https://wcd.coe.int/ViewDoc.jsp?id=955747>> [Accessed 13 August 15]. It is also contrary to rule 9(1) of the Standard Minimum Rules for the Treatment of Prisoners. Available from: <<http://www.ohchr.org/Documents/ProfessionalInterest/treatmentprisoners.pdf>> [Accessed 13 August 15].

<sup>254</sup> Cork and Limerick prison were at 114% and 105% capacity respectively on the 18th June 2015. Many other prisons were operating at close to full capacity. Daily prison population figures available from: <[http://www.irishprisons.ie/images/dailynumbers/18\\_june\\_2015.pdf](http://www.irishprisons.ie/images/dailynumbers/18_june_2015.pdf)> [Accessed 13 August 15].

<sup>255</sup> Other areas of concern include lack of exercise, training, education and rehabilitation provided to vulnerable prisoners. Reilly, M., J. (2013) *An Assessment of the Irish Prison System by the Inspector of Prisons Judge Michael Reilly* Available from:

<[http://www.inspectorofprisons.gov.ie/en/IOP/An%20Assessment%20of%20the%20Irish%20Prison%20System%20\(PDF%20-%20201.15MB\).pdf/Files/An%20Assessment%20of%20the%20Irish%20Prison%20System%20\(PDF%20-%20201.15MB\).pdf](http://www.inspectorofprisons.gov.ie/en/IOP/An%20Assessment%20of%20the%20Irish%20Prison%20System%20(PDF%20-%20201.15MB).pdf/Files/An%20Assessment%20of%20the%20Irish%20Prison%20System%20(PDF%20-%20201.15MB).pdf)> [Accessed 18 September 2015].

<sup>256</sup> UN Human Rights Committee concluding observations on Ireland’s fourth periodic report, CCPR/C/IRL/CO/4. Available from:

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<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FIRL%2FCO%2F4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FIRL%2FCO%2F4&Lang=en)> [Accessed 18 September 2015].

<sup>257</sup> In 2013, an overall total of 96 children were remanded in custody by the courts to the Children Detention Schools. Of these, only 26 children subsequently received a detention order, representing 27% of the total. In 2014, a total of 110 children were remanded in custody. Of these, only 49 children subsequently received a detention order, representing 45% of the total. Available from: <<https://www.kildarestreet.com/wrans/?id=2015-06-09a.1401&s=children+and+remand#g1402.q>> [Accessed 18 September 2015].

<sup>258</sup> Following recent inspections, there were issues with standards in relation to single separation, the management of medication, and staffing and training issues. The failure to meet these standards was deemed to present a “significant risk”. Health Information and Quality Authority (HIQA), Inspection Reports in Children’s Detention School in Oberstown. Available from: <<http://hiqa.ie/social-care/find-a-centre/childrens-centre/oberstown-campus>> [Accessed 18 September 15].

<sup>259</sup> Fines (Payment and Recovery) Act 2014. Available from:

<<http://www.irishstatutebook.ie/2014/en/act/pub/0007/index.html>> [Accessed 18 September 2015].

<sup>260</sup> Information available from: <[http://www.irishprisons.ie/images/pdf/ar2014\\_english.pdf](http://www.irishprisons.ie/images/pdf/ar2014_english.pdf)>

[Accessed 18 September 2015].

<sup>261</sup> Office of the Inspector of Prisons Annual Report 2013/2014, para. 6.1. Available from:

<<http://inspectorofprisons.gov.ie/en/IOP/Inspector%20of%20Prisons%20Annual%20Report%202014.pdf/Files/Inspector%20of%20Prisons%20Annual%20Report%202014.pdf>> [Accessed 18 September 2015].

<sup>262</sup> In relation to housing.

<sup>263</sup> Submission made in relation to housing.